UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - X

UNITED STATES OF AMERICA, : 10 CR 268 (DLI)

:

-against- :

United States Courthouse
Brooklyn, New York

SHAUN TAYLOR :
TIMOTHY PINKNEY

June 30, 2014
Defendants. : 9:30 o'clock a.m.

- - - - - - - - - - - - - X

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE DORA L. IRIZARRY
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government:

LORETTA E. LYNCH
United States Attorney
BY: MATTHEW S. AMATRUDA
TALI FARHADIAN
Assistant United States Attorneys
271 Cadman Plaza East
Brooklyn, New York

For the Defendants:

PAUL P. RINALDO, ESQ.
CARL J. HERMAN, ESQ.
Attorneys for S. Taylor

ROYCE RUSSELL, ESQ.
RICHARD JASPER, ESQ.
Attorneys for T. Pinkney

Court Reporter: Gene Rudolph
225 Cadman Plaza East
Brooklyn, New York
(718) 613-2538

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

****

(The following occurred in the absence of the prospective jury panel.)

THE COURT: I want all the student interns, please -- I assume you are all student interns -- to sit all the way in the back on my right. All of you, please, the last row. There should be no talking during the proceedings, please.

We can bring out the defendants.

Thank you.

(The defendants are present.)

THE CLERK: Criminal cause for jury selection, the docket number 10 CR 268, United States versus Shaun Taylor and Timothy Pinkney.

Please state your appearances.

MR. AMATRUDA: Matthew Amatruda, Tali Farhadian for the United States. With us at counsel table is Special Agent Thomas McNally of the Federal Bureau of Investigation.

Good morning, Your Honor.

THE COURT: Good morning.

For the defendants?

MR. RINALDO: Paul Rinaldo and Carl Herman for Mr. Taylor.

Good morning, Judge.

THE COURT: Good morning. Good morning to all of you.

MR. RUSSELL: Good morning, Your Honor.

Royce Russell and Richard Jasper representing Mr. Pinkney.

THE COURT: Good morning to all of you.

We are here to begin with our jury selection. If you will recall, we called 41 to come in this morning. They are in sequential order. That's of the jurors that there was follow-up necessary, both as to defense challenges for cause and then additional follow-up questions.

As I was going through some of the questionnaires again, there are some for whom perhaps there may be some sensitive medical information or personal information and I just thought that those people I will just call up to the side bar right off the bat rather than start questioning them and address those sensitive issues up front.

What I am proposing to do is to add another row up in the front here so that we will have 24. We will start with juror number one, would be the one closest to where the court reporter is on the inside of the well as opposed to -- just outside of the jury box. So that 24 will end up over there. And then we can put six in the well for 30. So that will have two here.

The problem is, there is the podium and all the other stuff on the side there. So we can probably fit two or three in the front and then another two or three just up to where the chairs are at the defense table, just so that in case there is conversation at defense counsel table, I don't want the jurors to be able to hear anything.

Then we will sit the rest of them across, going that way on the second row following behind until we fit the seats. If that's okay with everybody.

MR. RINALDO: Fine, Judge.

MR. RUSSELL: Fine.

THE COURT: Hopefully, we will be able to seat them all that way.

Okay. Any questions before we send for the jurors?

MR. RINALDO: No, Your Honor.

THE COURT: Anything?

Since we have a lot of young able bodies here who are interested in participating in the court process, may we have some interns up here to help us move some chairs around?

THE CLERK: Shall I call for the jurors?

THE COURT: Yes, please.

You can just take some chairs from in here from the counsel table. They won't need them today.

Thank you very much.

You are going to have to move them a little closer to where the reporter is.

Exactly. Great.

Thank you.

We need six up in the front total.

They can sit on the benches. They will be fine.

Thank you very much.

(Prospective jury panel enters courtroom and the following occurs.)

THE COURT: Ladies and gentlemen, please come in. Go all the way to the front and then go all the way to the side. Front row back in there. This is the well of the courtroom. Just go inside to any seat. Go all the way to the end. Take every possible seat. You can sit down as you come in. Okay. Please fill every possible seat. Go all the way to the end.

As you come in, go all the way to the end. Take every possible seat. Go all the way to the end, please. Fill every possible seat. It doesn't matter, just go in and fill every possible seat.

Okay. Come all the way to the front now and start filling the front row over there. Go all the way to the end.

Please step up and come all the way up and fill in every possible seat, starting with the first row. Go all the way to the end and fill every possible seat.

Okay. Members of the audience, if there is no room for the audience, you are going to have to step out until we clear the rows.

There is room in the front here. There is one seat right here in the front.

Good morning, ladies and gentlemen.

We are going to call the case.

THE CLERK: Criminal cause for jury selection, docket number 10 CR 268, United States versus Shaun Taylor and Timothy Pinkney.

Please state your appearances.

MR. AMATRUDA: Matthew Amatruda and Tali Farhadian for the United States. With us this morning at counsel table is Special Agent Thomas McNally from the Federal Bureau of Investigation.

Good morning, Your Honor.

THE COURT: Good morning.

And for Mr. Shaun Taylor?

Mr. Taylor, if we could have you stand up, please?

Good morning.

MR. RINALDO: Good morning.

My name is Paul Rinaldo.

Good morning, Judge.

MR. HERMAN: Good morning, Judge.

Carl Herman, also for Mr. Taylor standing to my right, Judge.

THE COURT: Thank you. And good morning.

Please have a seat.

And for Mr. Pinkney, who is at the end in the white shirt? Counsels, may I have your appearance, please?

MR. RUSSELL: Good morning, Your Honor; Royce Russell.

MR. JASPER: Good morning, Judge; Richard Jasper.

THE COURT: Good morning.

Thank you.

I've had the parties introduce themselves because it has been a little while since you were all in that very big jury room and you were called in to fill out a questionnaire. I remind you that at that time you were administered your oath as jurors and I remind you that you are still under oath. You've all been brought here today so that we could follow up on some of the responses that you all gave to the questionnaires.

Again, my name is Dora Irizarry. I am the judge who is going to be presiding over this matter. To my right is one of my law clerks, Jennifer Klein, and also to the back, if we could have Mr. Temidayo Aganga-Williams is also one of my law clerks, who will be assisting me.

I have some students in the back who are observing here today.

So what we are going to do, ladies and gentlemen, is we do have, as I say, a few questions to follow-up on with you. We are going to call you to come and sit down. We are going to start with the front row. That's here in front of the jury box. This box here is called the jury box. This inner part here is called the well of the courtroom.

We are going to bring you in and we are going to have you sit according to your numbers. Remember, we are not using your names. You should know the number of the juror questionnaire that you filled out because that's the only way that we are going to be referring to you.

Okay?

I am going to ask my deputy to start calling your numbers out and have you sit in that order.

THE CLERK: Number 4, number 7, number 8, 10, 15, 20, 23, 24, 27, 35, 36, 39, 41, 43, 47, 48, 49, 50, 56 -- I'm sorry 52 first. So 50, 52, then 56, 59, 60, 64, 66, 68, 70.

THE COURT: 68, all the way over. Not that far. We want to be able to see your lovely faces. We are only going to seat three of you. So from the end we can fit three, so we can see you.

THE CLERK: 84, 86, 90, 93.

THE COURT: All right. The gentleman who is in that front row in the yellow shirt, if we could just ask you to move back for a minute so that we can start filling that row towards the end. We are going to put six back there.

THE CLERK: Okay.

95, 96, 99, 100, 102, 105. That's six in that row.

THE COURT: Gentleman in the colorful shirt there, yes, if we could ask you just to sit -- move to the back.

THE CLERK: He's actually the next one.

THE COURT: Just slide over then. Okay. Perfect.

THE CLERK: So then he's number 106, 117, 127, 128 and 136.

THE COURT: All right. Thank you all very much.

I am going to ask if I can have the attorneys come up to the side with the reporter.

(Side bar.)

THE COURT: I meant to ask you all on the record before, are your clients okay with their not being present at the side bar?

MR. RUSSELL: I will ask. I think it's all right.

MR. RINALDO: My client is fine witness, Judge.

MR. RUSSELL: Yes.

(In open court.)

THE COURT: Can we have juror number four come up here, please?

(Juror present.)

THE COURT: You mentioned that your husband was going to have some radiation treatment.

THE PROSPECTIVE JUROR: He started them. I brought his schedule.

THE COURT: I didn't know if you wanted to talk about that openly.

THE PROSPECTIVE JUROR: That's his schedule. Today is number ten. So far so good.

THE COURT: Wow.

THE PROSPECTIVE JUROR: But I don't know what's going to happen.

THE COURT: So he goes every day?

THE PROSPECTIVE JUROR: Every day, yes.

THE COURT: Who goes with him?

THE PROSPECTIVE JUROR: So far he can go by himself.

THE COURT: But you don't know what's going to happen with him, right?

THE PROSPECTIVE JUROR: Exactly. That's why I wrote it.

THE COURT: Yes. When is he supposed to -- this is his whole --

THE PROSPECTIVE JUROR: August, I think, 15th is it.

THE COURT: So he is going every single day beginning -- he began on the tenth?

THE PROSPECTIVE JUROR: Right. Low dose. That's why.

THE COURT: Low dose. Okay.

He skips one day a week?

THE PROSPECTIVE JUROR: No. July 4th he is off. He meets with the doctor today, every Monday.

THE COURT: I see. Okay.

So far he has been handling it okay?

THE PROSPECTIVE JUROR: Yes, great.

THE COURT: If you were chosen to sit -- I will return this to you -- if you were chosen to sit on this jury, if you were chosen to sit on this jury and he needed some help, let's say, heaven forbid, but let's say that he should have some reaction.

THE PROSPECTIVE JUROR: Somebody has to drive him or something.

THE COURT: Is there someone available who could do that?

THE PROSPECTIVE JUROR: I guess.

THE COURT: The --

THE PROSPECTIVE JUROR: Usually it would be me.

THE COURT: Usually it would be you? You are the one that has been going to the doctor with him all the time?

THE PROSPECTIVE JUROR: I went to the consults and everything.

THE COURT: You went to the consults and everything.

Would you be able to focus on what's going on here?

THE PROSPECTIVE JUROR: As far as that's concerned, I think so.

THE COURT: Okay. Let me ask you, you also mentioned that you were a teacher are? Are you still a teacher?

THE PROSPECTIVE JUROR: No, retired, eight years tomorrow.

THE COURT: Must be nice.

THE PROSPECTIVE JUROR: It is.

THE COURT: Congratulations.

THE PROSPECTIVE JUROR: Thanks.

THE COURT: You mentioned that there was a homicide of a fellow teacher.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Apparently a home invasion?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is that right?

THE PROSPECTIVE JUROR: She was be headed and he rode around with her head in the trunk on Long Island.

THE COURT: Was the person arrested, ultimately?

THE PROSPECTIVE JUROR: I think he was confined to a mental institution.

THE COURT: Okay. Do you know whether he went to trial or whether he just --

THE PROSPECTIVE JUROR: I am not sure.

THE COURT: You don't know?

THE PROSPECTIVE JUROR: No, I am not sure.

THE COURT: At the time that that happened, were you involved in the case at all?

THE PROSPECTIVE JUROR: No.

THE COURT: In terms of any kind of testifying or anything like that?

THE PROSPECTIVE JUROR: No.

THE COURT: Is there anything at all about that situation that you think might affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: The charges do include a couple of charges of murder, a shooting I believe. I think the attorneys can correct me if I am wrong.

MR. AMATRUDA: Correct.

THE COURT: Not quite the same but similar charges. Would you be able to set aside whatever happened to that teacher?

THE PROSPECTIVE JUROR: Yes, I think so.

THE COURT: Okay. Did they provide any counseling at the school to the staff or the children?

THE PROSPECTIVE JUROR: She wasn't working at the school then. She was someone who had worked previously. She was a sub.

THE COURT: I see.

THE PROSPECTIVE JUROR: And one of the women that I car pooled with is her sister-in-law.

THE COURT: I see. Okay.

Just going back to your husband again, I guess it's kind of hard to predict what's going to happen. I guess the concern that we have is, even if you were to start serving, obviously we gave a date of somewhere around the middle of August for this case to end. We won't be sitting on Fridays. But if it should happen that he would need somebody, is there anybody at all that could help him, in the family or neighbors or somebody?

THE PROSPECTIVE JUROR: I'm sure we can find somebody.

THE COURT: Okay. Let me have you take a seat. Okay?

THE PROSPECTIVE JUROR: Okay.

THE COURT: Thank you very much.

(Juror leaves side bar.)

THE COURT: Is there any follow-up that you want me to ask?

MR. AMATRUDA: Not from the government.

Thank you, Your Honor.

MR. RINALDO: No.

MR. RUSSELL: No, Your Honor.

THE COURT: Okay. I think the next ones we can just do in open court.

(In open court.)

THE COURT: Let me just say this, ladies and gentlemen. We are going to follow-up with, as I said, with some of the responses that you gave on the questionnaires.

If there is something that we touch on that you feel is something you would like to address more privately, as you just saw us today with juror number four, just let us know. Okay?

We want to try not to do that with every single person because it slows down the process, but we also do want to respect your privacy. So if there is something that we touch on that you feel is something you would much rather discuss with us more privately at the side, just let me know.

Juror number seven, you mentioned that you had a nephew who had been shot and killed and there was someone who had been arrested and served in prison.

Are we talking about the same person?

THE PROSPECTIVE JUROR: No.

THE COURT: Different?

THE PROSPECTIVE JUROR: Two different nephews.

THE COURT: Two different nephews, okay.

In connection with the nephew who was diseased, how long ago was that?

THE PROSPECTIVE JUROR: About -- about three years.

THE COURT: About three years ago?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did they ever find the person who did it?

THE PROSPECTIVE JUROR: Not at all.

THE COURT: No.

How do you feel about the way that law enforcement responded to the situation?

THE PROSPECTIVE JUROR: Oh, they responded beautifully. I mean, they really worked with my sister. As a matter of fact, the --

MR. HERMAN: We are having trouble hearing.

THE COURT: If you can keep your voice up nice and loud.

THE PROSPECTIVE JUROR: Sure.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: Do you want me to --

THE COURT: If you can just repeat the last response. I think maybe they didn't hear all the way at the end.

THE PROSPECTIVE JUROR: I felt that law enforcement dealt with the situation beautifully.

THE COURT: Then you had another nephew who wound up going to prison?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you feel about the way that the criminal justice system handled his situation?

THE PROSPECTIVE JUROR: Exactly as they should have. He was naughty.

THE COURT: Okay. You had a younger brother who had some issues with alcoholism.

THE PROSPECTIVE JUROR: Yes. My youngest brother Randy.

THE COURT: Okay. How is he doing today? Is he better?

THE PROSPECTIVE JUROR: Excellent.

THE COURT: Okay. So he's in recovery?

THE PROSPECTIVE JUROR: He has been for quite sometime now, yes.

THE COURT: Congratulations to him.

As you may recall, I mentioned that this case involves conspiracy to distribute various kinds of drugs. There is powder cocaine, crack cocaine and heroin.

Is there anything at all about those charges or anything at all connected with the fact that it involves drugs that would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: Not at all.

THE COURT: Okay. I wasn't sure if you had left a blank intentionally or accidentally. There is what I like to call the catchall question all the way at the end:

Is there any reason why you think you could not serve on this jury?

I am going to ask you now, is there any reason why you think you could not serve on this jury?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you.

THE PROSPECTIVE JUROR: You are quite welcome.

THE COURT: Juror number eight, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You mentioned that you had some difficulty with English. I wanted to follow-up with that.

What level of school did you go to? You didn't answer that question.

THE PROSPECTIVE JUROR: I didn't go to any school here.

THE COURT: You didn't go to school in the United States?

THE PROSPECTIVE JUROR: No.

THE COURT: Did you go to school somewhere else?

THE PROSPECTIVE JUROR: Yes. I was born in Vietnam.

THE COURT: So you went to school in Vietnam?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. And the schools in Vietnam, in what languages do they conduct the courses?

THE PROSPECTIVE JUROR: In Vietnam, mostly we learning Chinese and Vietnamese.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Yes.

THE COURT: How long have you been in the United States?

THE PROSPECTIVE JUROR: About 20 some years.

THE COURT: You have been here 20 years.

What kind of a job do you do? It wasn't clear. You wrote something about banking.

THE PROSPECTIVE JUROR: Yes.

THE COURT: And standby letters of credit. If you can just talk to us about what that entails?

THE PROSPECTIVE JUROR: I work Japanese bank and my job -- my job is like doing some stamp letter of credit.

THE COURT: What does that mean? Excuse my ignorance. I know very little about banking.

THE PROSPECTIVE JUROR: My -- I don't know how to explain it. My English not good.

THE COURT: What do you do exactly?

THE PROSPECTIVE JUROR: I doing like some documents and inputting and doing the payment about this kind, inputting.

THE COURT: So you get a document that tells you how much you have to pay into an account, is that what you do?

THE PROSPECTIVE JUROR: Yes, kind of like that, yes. Yes.

THE COURT: I see.

(Continued on next page.)

THE COURT: When you do your job, are you working with other people, as well, or are you just sitting by yourself with a mountain of paper?

THE PROSPECTIVE JUROR: No. We have a whole department together.

THE COURT: You have a whole department together?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you did serve on a grand jury --

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- at one point. Do you remember how long ago it was? We don't need to know the exact year, more or less about how long it was.

THE PROSPECTIVE JUROR: About ten years ago.

THE COURT: About ten years ago?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you remember whether it was a state grand jury or whether it was a federal grand jury?

THE PROSPECTIVE JUROR: I don't remember.

THE COURT: Was it near here?

THE PROSPECTIVE JUROR: Yes.

THE COURT: The short building next door?

THE PROSPECTIVE JUROR: Around here. Another building. On the other side.

THE COURT: On the other side?

THE PROSPECTIVE JUROR: Yes.

THE COURT: The other side of the entrance here?

THE PROSPECTIVE JUROR: Not this building, the other building.

THE COURT: Closer to where the trains are?

THE PROSPECTIVE JUROR: No. Trains and the second building, the other entrance.

THE COURT: Okay. How long did you sit on that grand jury?

THE PROSPECTIVE JUROR: I don't know.

THE COURT: How long were you part of that grand jury? Did you get chosen to sit on the grand jury?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, you heard criminal cases?

THE PROSPECTIVE JUROR: Not really. Very small cases. They have different kinds of cases.

THE COURT: Do you remember whether you sat on it a week or two weeks or a month, or did you sit for certain days and come back?

THE PROSPECTIVE JUROR: About two weeks.

THE COURT: Thank you.

Our Juror No. Ten. Hi.

You mentioned -- there was a question about whether you or a close friend or a family member had ever been stopped or questioned or investigated, arrested or prosecuted; basically, any contact with law enforcement, to put it simply.

You answered, no, but then you mentioned that a cousin of your spouse --

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- had been sent to jail. Do you know anything at all about what the case was about?

THE PROSPECTIVE JUROR: About drugs.

THE COURT: It was about drugs. Do you know anything else besides that?

THE PROSPECTIVE JUROR: No. That was like fifteen years ago.

THE COURT: Fifteen years ago. Did you actually know that cousin?

THE PROSPECTIVE JUROR: I know him, yes.

THE COURT: Do you know whether that cousin went to trial?

THE PROSPECTIVE JUROR: Yes, he did.

THE COURT: How do you feel about the way that the criminal justice system treated him and his case?

THE PROSPECTIVE JUROR: I think it was -- I'm not really sure, because we're not that close, and then he was sent back to the Philippines.

THE COURT: He was sent back to the Philippines. So, more than fifteen years ago was the last contact that you had with that cousin?

THE PROSPECTIVE JUROR: Yes.

THE COURT: There was a question about possible media attention, and it's very important -- I don't want to see reading material out, please. Please put that reading material away. All of you need to pay attention to what's going on here, because what's going on here may be relevant to you. This relates to everyone. Okay.

And if you will remember back when you were handed out the questionnaire, I mentioned there is a possibility that this case could get media attention. Maybe it will, maybe it will not, but it's very important, if you are chosen to serve and even now as we're going through this jury selection process, that if you happen to hear anything or see anything about this case being reported over any kind of media, whether it's the TV, newspapers, the Internet, YouTube, FaceBook, anything at all, maybe you are looking at your cell phone or iPads -- there's so many things out there these days that I cannot keep up -- what we're going to ask you to do -- obviously, you won't know if it's being reported unless you see it -- what we're asking you to do is look away. Don't listen. Turn it over. Turn the page. Scan it over. Do whatever it is, so that you are not actually reading it.

So, my question is -- one of the questions that was asked was whether you would follow that instruction that I am going to be giving, and I'm going to give it every day: That you are not to watch TV, go on the Internet or listen to or watch any media coverage regarding this case, and you can only consider the information that's presented in the courtroom, the evidence that's presented in the courtroom.

Our Juror No. Ten, you said that you might be more interested to know about the case, I guess, and to know what the people are thinking. Can you talk to us a little bit about what you mean?

THE PROSPECTIVE JUROR: To get more information.

THE COURT: Well, the only information that the jury can consider is the evidence that's presented in the courtroom, and even then, the only evidence that the jury can consider is the evidence that I say is admissible.

So, during the course of the trial, for example a lawyer may object to a question that is asked, and I may sustain that objection, or maybe an answer has already been given, and I say, Okay, jury, you have to forget that that answer was given. That answer is not admissible. So, the jury cannot consider that. You can't consider a question that was asked that was objected to. You can only consider the evidence that I say, It's okay, that's evidence that you can consider, and you can't base it on anything else that might be reported outside.

Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Because believe me, the best information is going to be presented here in the courtroom and not over the media. Do you understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you can follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

And Juror No. 15. Good morning.

THE PROSPECTIVE JUROR: Hi.

THE COURT: You also indicated that you had some difficulty with English. I wanted to ask you: What other neighborhoods did you live in besides -- what neighborhood are you living in now, just generally?

THE PROSPECTIVE JUROR: Most of, Italian. My neighbors is very quiet. They don't have something difficult.

THE COURT: Did you go to school?

THE PROSPECTIVE JUROR: Only six months, six months for the language, for the basic English.

THE COURT: For basic English here?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Where are you from originally?

THE PROSPECTIVE JUROR: I come from China.

THE COURT: Did you go to school in China?

THE PROSPECTIVE JUROR: Yes, high school.

THE COURT: High school, up to high school?

THE PROSPECTIVE JUROR: Yes.

THE COURT: That was all in China; when you went to school, all of it was in China?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, the only schooling you've had in the United States is six months for English?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And do you work outside of the home?

THE PROSPECTIVE JUROR: Yes. I work outside for the hardware store.

THE COURT: What do you do at the hardware store?

THE PROSPECTIVE JUROR: Bookkeeper.

THE COURT: You are a bookkeeper. Does that require you to read any documents?

THE PROSPECTIVE JUROR: Doing for the inventory, accounts payable. For the basic paperwork.

THE COURT: For basic paperwork?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you communicate at work? Do you communicate in English or in Chinese?

THE PROSPECTIVE JUROR: Yes, Chinese. Most, Chinese.

THE COURT: Your employer also is Chinese?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: There is one other thing I wanted to ask you, and perhaps we should talk to you at the side.

If I can see the attorneys and the reporter.

(Sidebar.)

THE COURT: You can come closer. So, you mentioned that you heard of Mr. Jasper, that you had heard he was a good attorney?

THE PROSPECTIVE JUROR: I see the name. I write down. I don't know.

THE COURT: You don't know where you heard of Mr. Jasper before?

THE PROSPECTIVE JUROR: No.

THE COURT: Anybody here look familiar to you?

THE PROSPECTIVE JUROR: No.

THE COURT: Like you have seen anybody here before?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. All right.

MR. RINALDO: Judge, would you ask her if she thinks her difficulty with English would affect her ability to sit through that trial?

THE COURT: Do you think that you would be able to follow the trial based -- there's a lot that we're going to be discussing in terms of legal principles and things like that at the end of the case. Would you be able to follow what we're talking about?

THE PROSPECTIVE JUROR: Most English, I don't understand. I don't understand.

THE COURT: Okay. The neighborhood that you live in, is it a mixed neighborhood?

THE PROSPECTIVE JUROR: No.

THE COURT: Some Chinese stores, and you have --

THE PROSPECTIVE JUROR: We are neighbors, very quiet, and my family, very quiet. It's nice neighborhood.

MR. ROYCE: I want to have a conversation without the juror present.

MR. AMATRUDA: Your Honor, you mentioned prior jury service, but not whether it was grand jury or trial jury or what type of service it was.

THE COURT: Did you ever serve on a jury before?

THE PROSPECTIVE JUROR: Yes. I go to grand jury.

THE COURT: Did they ask you to actually sit on the grand jury?

THE PROSPECTIVE JUROR: Sit one day. English is not too good.

THE COURT: You sat one day and that was it, so they sent you home?

THE PROSPECTIVE JUROR: Only one day. Come one day and go home.

THE COURT: So, when you went to the grand jury, is that the one that's near the borough hall over there?

THE PROSPECTIVE JUROR: Yes, yes, borough hall.

THE COURT: All right. You can have a seat. Just take your seat.

THE PROSPECTIVE JUROR: Thank you.

MR. ROYCE: Your Honor, I believe Juror No. Ten, was it, I think you questioned her about she had some issue with her kids? That's the note we have.

MR. JASPER: Judge, I think it was her children had doctors' appointments.

MR. ROYCE: At least, that's what our notes had as far as the follow-up was concerned. We wanted to make sure we didn't miss it.

(In open court.)

THE COURT: Juror No. Ten, can we just ask you something.

(Sidebar.)

THE COURT: Hi. I'm sorry. I forgot to ask you. You mentioned your children have some doctors' appointments?

THE PROSPECTIVE JUROR: I'm a single mom. We're not together anymore, so I'm the only one with them.

THE COURT: How old are your children?

THE PROSPECTIVE JUROR: Fourteen and eleven.

THE COURT: So, who takes care of them.

THE PROSPECTIVE JUROR: Right now, my niece from Florida is with them.

THE COURT: When are the appointments?

THE PROSPECTIVE JUROR: It's in my phone. I don't know. But it's in July. I'm not sure what date.

THE COURT: In July?

THE PROSPECTIVE JUROR: Yes.

THE COURT: It possible that they could be switched over to a Friday?

THE PROSPECTIVE JUROR: I can call later and find out.

THE COURT: Are these like regular appointments?

THE PROSPECTIVE JUROR: Just like dental and doctor.

THE COURT: The general follow-up that children always go through?

THE PROSPECTIVE JUROR: September is for my other daughter.

THE COURT: We don't need to worry about September. You'll be fine for September. But any appointments that you can recall now coming up?

THE PROSPECTIVE JUROR: No. Just the dental and doctors. That's it. Maybe I can do it on the afternoon.

THE COURT: We won't meet on Fridays, so if it's possible, if you can move it to Fridays?

THE PROSPECTIVE JUROR: Okay.

THE COURT: Fridays, you won't come here to court. Fridays you can go to work or do whatever it is that you want to do.

THE PROSPECTIVE JUROR: Okay.

THE COURT: Thank you.

MR. RINALDO: I was going to ask if we could have consent to excuse --

THE COURT: I don't want to do that right now. I'll make a notation of that. Okay.

MR. RINALDO: Thank you, your Honor.

MR. ROYCE: Thank you, your Honor.

(In open court.)

THE COURT: Juror No. 20. Good morning. You also indicated that your English may not be so perfect, that you understand a little bit better than you speak. You didn't tell us how far you went in school.

THE PROSPECTIVE JUROR: I didn't do any school here.

THE COURT: You didn't go to school in the United States?

THE PROSPECTIVE JUROR: No.

THE COURT: Where did you go to school?

THE PROSPECTIVE JUROR: My country, Slovenia.

THE COURT: How far did you go in school?

THE PROSPECTIVE JUROR: I finished college.

THE COURT: You finished college?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What languages do they teach courses in college in Slovenia?

THE PROSPECTIVE JUROR: We are neighbors with Italy and Austria, so German and Italian.

THE COURT: The courses can be German and Italian.

THE PROSPECTIVE JUROR: Yes. I learned German.

THE COURT: German?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, you know German?

THE PROSPECTIVE JUROR: I did it so many years ago, I don't know.

THE COURT: I know. I studied French for like eight years, and it's very rusty. It's very rusty.

You are in the hotel business. I assume that that requires you to deal with people on a daily basis; correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What do you do exactly for the hotel business?

THE PROSPECTIVE JUROR: Excuse me?

THE COURT: What do you do exactly for your job?

THE PROSPECTIVE JUROR: I'm a bellman.

THE COURT: You are a bellman?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you've been doing that for how long?

THE PROSPECTIVE JUROR: Since I'm here.

THE COURT: Since you were here?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you also mentioned that there was somebody who was involved in a legal action against the Long Island Rail Road, the aunt of your daughter?

THE PROSPECTIVE JUROR: Yes. I didn't know how to say that, but she's a godmother.

THE COURT: What happened to her? Did she have an accident on the Long Island Rail Road?

THE PROSPECTIVE JUROR: No. She was involved in disabled things last year. She was the office manager for the doctor.

THE COURT: I don't understand.

THE PROSPECTIVE JUROR: So many people went to disability on Long Island Rail Road. She was involved with that.

THE COURT: I see. Was she involved in the lawsuit itself, in getting information, or what was her involvement with that?

THE PROSPECTIVE JUROR: She was an office manager in doctor's office, and she was -- she knew everything.

THE COURT: I see. And the doctor was involved in terms of the treatment that he gave to people that said they had disabilities?

THE PROSPECTIVE JUROR: Yeah.

THE COURT: So, did she have to testify?

THE PROSPECTIVE JUROR: Oh, yes.

THE COURT: Did you go to court to see that testimony?

THE PROSPECTIVE JUROR: Last day.

THE COURT: You went the last day of her testimony?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you talk to her about how she felt about the process?

THE PROSPECTIVE JUROR: She wasn't too happy. She got house arrest.

THE COURT: Is there anything about that experience that your aunt's daughter had that would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: I don't think so.

THE COURT: This is for everyone. One of the instructions that I will be giving you, both today and as we go through the case if you are chosen to serve, is, you cannot discuss this case, including the jury selection process, with anyone. That includes your children, your spouses, your friends, your neighbors, the hotel bellmen. You can't discuss the case with anyone.

You mentioned, Juror No. 20, that you would feel that you would have to discuss it with your wife. Would you be able to follow my instruction and not discuss it with your wife if I said you cannot discuss it?

THE PROSPECTIVE JUROR: I am not promise you that.

THE COURT: Why is that?

THE PROSPECTIVE JUROR: Because I don't hide anything from my wife.

THE COURT: Let me put it this way: Would you be able to at least hold back and not discuss anything at all about the case with your wife until the case was over and a verdict -- a decision had been made by the jury? Could you at least wait until the whole case is over?

THE PROSPECTIVE JUROR: I can try, but I cannot promise.

THE COURT: Thank you.

Juror No. 23, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: Without actually telling us the name of the place that you work, you mentioned that you have been working in the legal field for about twenty-six years. Have you always worked at the same place?

THE PROSPECTIVE JUROR: Two separate places.

THE COURT: Two separate places. Did any of those places ever do criminal work?

THE PROSPECTIVE JUROR: Yes. But I was not involved in that.

THE COURT: So, where you are working now, do they do mostly civil work?

THE PROSPECTIVE JUROR: The work that I do is product liability.

THE COURT: Product liability. Okay.

What is your function exactly? You help prepare paperwork; is that what you do?

THE PROSPECTIVE JUROR: If I'm asked. But mostly, my work is administrative.

THE COURT: Administrative. Okay.

Do you ever have occasion to go to court with any of the attorneys?

THE PROSPECTIVE JUROR: No.

THE COURT: Is there anything at all about the work that you do that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: She says that with such a big sigh.

You mentioned that you were a victim of some violence some twenty years ago. Did you ever report the incidence to the police?

THE PROSPECTIVE JUROR: Oh, yes.

THE COURT: How do you feel about the way they responded?

THE PROSPECTIVE JUROR: I've had good experience. It was rough sometimes. I have good experience with the police, and I have some not so great experiences with them during that time, during that time of that period.

THE COURT: I assume that's all over now?

THE PROSPECTIVE JUROR: That's all over now.

THE COURT: That's all gone?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Well, is there anything -- did you ultimately have to go to court?

THE PROSPECTIVE JUROR: I did not.

THE COURT: Is there anything at all about the experiences you had in connection with law enforcement that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: Of course, this is for everyone. I'm going to be giving an instruction that the testimony of police officers is to be evaluated the same as the testimony of anybody else, regardless of what they do for a living, whether they are a teacher, a stay-at-home mom or dad. It doesn't matter they do for a living. Their testimony is to be evaluated the same way as anybody else's. Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anybody here who would have any difficulty following that instruction? Raise your hand.

Okay. Nobody has raised their hand.

And you have a friend who, at some point, had been stopped by the police. You mentioned that you were not there. I guess you talked to your friend about what happened. Did your friends indicate what their feelings were or impressions were about how they were treated?

THE PROSPECTIVE JUROR: It's always bad.

THE COURT: Was the person allowed to go, or were they brought into a precinct or arrested?

THE PROSPECTIVE JUROR: They were allowed to go.

THE COURT: Is there anything about the experience that your friend had that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned that "It's always bad." What do you mean by that?

THE PROSPECTIVE JUROR: What?

THE COURT: The terms of the stop, for example, that your friend experienced?

THE PROSPECTIVE JUROR: Well, remember, he's telling me these stories. He would tell me that he was just simply going through the turnstile and was stopped, frisked. At one point, he told me they pulled down his pants -- he was simply walking down the street -- to search him. So, those experiences were bad.

THE COURT: Okay. So, this happened to him more than once, then?

THE PROSPECTIVE JUROR: More than once, yes.

THE COURT: On any of those times was he ever taken to a precincts or arrested?

THE PROSPECTIVE JUROR: No.

THE COURT: He was just stopped and released?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And again, anything about that that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You had an older brother, who is deceased now, who had been in prison at some point. Do you know any of the details as to what happened to him or his case?

THE PROSPECTIVE JUROR: I don't necessarily know the details. I know it was probably drug-related.

THE COURT: What makes you say that?

THE PROSPECTIVE JUROR: Because he had a problem.

THE COURT: Okay. You heard me mention, of course, that this case does involve allegations of distribution of drugs and so on. Is there anything about what happened with your brother or any other experiences that you or your family members may have had that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: I keep thinking about that. I'm not sure.

THE COURT: What do you think makes you hesitate? I don't want to be -- I don't want to judge before I hear all the evidence.

I mean, we're going to be asking the jury not -- let me put it this way: One of the things that I tell the jury every time that we break -- to the point where, by the end of the case, the jury can recite these instructions back to me verbatim -- one of the things that I tell all of the jurors is that you have to keep an open mind and not make a decision about the case until such time as all of the evidence has been presented and the jury has heard my instructions on the law and the jury has had the time to go in and deliberate.

So, would you be able to do that, keep an open mind and base your decision just based on the evidence that's presented?

THE PROSPECTIVE JUROR: I could try.

THE COURT: The lawyers get a little bit nervous when they hear jurors say, I could try. We need some assurance from you all, because we're trying to get to know you in this brief little period of time here, and only you know who you are and what things affect you, obviously; right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: The question is whether there's anything about some of these things that you and your family have gone through that might impact your ability to be impartial here?

THE PROSPECTIVE JUROR: I don't believe that that's the case. I don't believe that what my family has gone through would affect my decision.

THE COURT: One of the other instructions that I'm going to give is that the jury has to make whatever decision it makes free from any kind of sympathy or bias or prejudices of any kind. And would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You had mentioned about a family member having issues with drugs. That was your brother that you were talking about?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you very much.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Juror No. 24.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: Good morning.

You're a self-employed computer programmer?

THE PROSPECTIVE JUROR: Correct.

THE COURT: And you mentioned a financial hardship. I understand your wife is working?

THE PROSPECTIVE JUROR: She's a nurse part time.

THE COURT: Part-time?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Tell me a little bit about your job. What is it that you do?

THE PROSPECTIVE JUROR: I work for different banks. I write code for trading desks, usually via Microsoft Excel and other database-type software, so they can trade, price stocks and automate their tasks.

THE COURT: So, we're not going to be sitting on Fridays. Is that something that you could do on Fridays or even over the weekend?

THE PROSPECTIVE JUROR: It's usually during trading hours, Monday through Friday, that I am at the trading desk.

THE COURT: You actually physically go to --

THE PROSPECTIVE JUROR: Yes. I work side by side with the traders.

THE COURT: And you do this every day?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, how is it that you -- how do you work out your salary arrangements with your customers?

THE PROSPECTIVE JUROR: Yes. What we do, there's an intermediary firm that charges a rate for me, and then they take a piece off that rate, and I get the rest. So, it's -- they charge $100 an hour, they keep 20, I get the 80.

THE COURT: So, what happens if you can't work?

THE PROSPECTIVE JUROR: I don't get paid. Like last year, I worked for Chase full-time, and it would absolutely have been not a problem, because Chase would have paid. But in this situation, no.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: Juror No. 27, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You mentioned that you had taken the 911 dispatcher exam?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you hear back from them at all?

THE PROSPECTIVE JUROR: I did hear the results, only oral.

THE COURT: How long ago did you take the test?

THE PROSPECTIVE JUROR: About a year now.

THE COURT: You mentioned that you haven't been working since 2011. Were you employed before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing before that?

THE PROSPECTIVE JUROR: I worked at a litigation company for about a year.

THE COURT: What do you mean by a "litigation company"?

THE PROSPECTIVE JUROR: Pretty much what I had to do was, we would receive documents from companies and we would clean them up, like basically what you see in document recovery. We had to prepare these documents if they had to go to court or whatever. We would just fix the documents.

THE COURT: You were basically preparing documents for litigation?

THE PROSPECTIVE JUROR: Yes.

THE COURT: This is like an outsourced company, basically?

THE PROSPECTIVE JUROR: I believe so.

THE COURT: So, like the law firms would send the documents to you all, and then you would prepare them for court?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know if any of them were for criminal cases?

THE PROSPECTIVE JUROR: No.

THE COURT: Did you work before that?

THE PROSPECTIVE JUROR: Before that, I was in school, and so I did a work/study job.

THE COURT: What did you do for work/study?

THE PROSPECTIVE JUROR: I kept logs of the students' attendance.

THE COURT: So, you had an experience where you were with somebody who had some marijuana on them, and you wound up getting scooped up in all that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you wind up having to go to jail for that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What happened to your case?

THE PROSPECTIVE JUROR: In the morning -- I spent the night there, and in the morning, when I went to the judge, they told me not to get into any kind of trouble for a year and that it would be removed from my record.

THE COURT: It would be dismissed?

THE PROSPECTIVE JUROR: Yes.

THE COURT: It was adjourned in contemplation of dismissal?

THE PROSPECTIVE JUROR: I'm sorry?

THE COURT: Adjourned in contemplation of dismissal? Does that sound familiar?

THE PROSPECTIVE JUROR: It was about almost nine years ago.

THE COURT: It was like nine years ago. Okay.

As far as you know, that had been dismissed?

THE PROSPECTIVE JUROR: Right.

THE COURT: Is there anything about that experience -- did your friend wind up going to jail?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did they give her the same treatment that you got?

THE PROSPECTIVE JUROR: No.

THE COURT: She really went to jail for more time?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anything about that experience that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: What about the testimony of police officers? You heard me mention that their testimony should be evaluated the same way as anybody else. In other words, you shouldn't believe them more or believe them less because they are police officers. Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I want to talk to counsel.

And we'll ask you to come up also, Juror No. 27.

(Sidebar.)

THE COURT: Hi. You mentioned that you had monthly doctors' visits, and you were so gracious enough to say that you were going to try and reschedule them. Is there anything that -- are you going to be able to reschedule your visits?

THE PROSPECTIVE JUROR: Because you said we won't be meeting on Fridays. I can always get a Friday appointment, and that won't be an issue.

THE COURT: I'm sorry that I have to ask these questions, because we really don't want to pry. Obviously, we also want to be able to accommodate any situation that a potential juror may have. Is there anything about your condition that would affect your ability to sit, especially for a long trial like this, where we may go into the middle of August?

THE PROSPECTIVE JUROR: No. I have medication that controls, so I'm able to get about.

THE COURT: Is that medication that has to be refrigerated or anything like that?

THE PROSPECTIVE JUROR: No.

THE COURT: You also mentioned that you had gone to school with Destiny Robinson. How long ago was that?

THE PROSPECTIVE JUROR: We were in elementary school from first grade up until eight grade.

THE COURT: Have you seen Destiny Robinson since that.

THE PROSPECTIVE JUROR: I have not seen her physically. We are friends on FaceBook. There hasn't been any meetings between us.

THE COURT: If you were to serve on this jury, would you be able to stay off FaceBook?

THE PROSPECTIVE JUROR: Yes. We're not like the closest of friends, anyhow.

THE COURT: You also mentioned that you had a good friend who was shot and died about two years ago?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Was the person who did that or persons who did that ever arrested?

THE PROSPECTIVE JUROR: Through FaceBook, I had seen that the person was apprehended. And as far as what happened with that, I don't have any -- I don't have any knowledge.

THE COURT: Do you have any feelings at all about the way that that case was handled?

THE PROSPECTIVE JUROR: I actually don't know. I didn't find out about it until it had already been -- this was like eight months later.

THE COURT: Is there anything about what happened to your friend that you think would affect your ability to be fair and impartial here? A couple of charges are murder and murder for hire.

THE PROSPECTIVE JUROR: No.

THE COURT: Are you familiar with the locations that were mentioned here? These are around the Bushwick area of Brooklyn, Marcus Garvey boulevard in Brooklyn?

THE PROSPECTIVE JUROR: I used to live close by the elementary school, but I have not lived there for fifteen years.

THE COURT: All right.

MR. AMATRUDA: Judge, if I might, could we perhaps have the potential juror just step aside for one moment, so we can discuss a potential question that we may want to ask? I think it makes sense to discuss it outside of her presence for now.

THE COURT: Let me ask you to stand over by where that computer screen is.

MR. AMATRUDA: Judge, here is the issue I have, is that Destiny Robinson used to date one of the cooperating witnesses, and in addition is in contact with Shawn Taylor pretty regularly. So, I think it makes sense to inquire into the FaceBook issue, because somebody who gets on FaceBook --

THE COURT: Why don't you ask the questions. I'm not familiar with the facts of the case.

MR. AMATRUDA: That's fine. I wanted to raise it first, so I didn't start going off the reservation with her.

THE COURT: Okay.

I'm going to let the lawyers ask some more specific questions.

MR. AMATRUDA: Thank you, your Honor.

As far as Ms. Robinson goes, does she post things on FaceBook about like people she might be dating or do you see postings from her about issues that are going on in her life, anything like that?

THE PROSPECTIVE JUROR: No. Her posts are all about her son, the two-year-old son. That is really her life right now.

MR. AMATRUDA: Do you guys actually communicate on FaceBook, or you are mostly on each other's friend lists?

THE PROSPECTIVE JUROR: Yes. She may like one of my pictures. Her son graduated. I would like her post about her son's graduation. There's no in-detail conversation about anything.

MS. FARHADIAN: Through FaceBook, are you aware of who her boyfriends are?

THE PROSPECTIVE JUROR: I'm not aware that she's in a relationship, not even her child's father.

MS. FARHADIAN: Do you know who her child's father is?

THE PROSPECTIVE JUROR: I have not seen her since the eighth grade.

MR. AMATRUDA: One other question. How about back in 2010, do you remember if you ever saw anything about her postings about anybody she was seeing or dating or anything like that?

THE PROSPECTIVE JUROR: When she announced she was pregnant, I remember she mentioned somebody named Malik Rainer who may be the father of her child. I've never seen him. I don't know anything else about him. We are also not friends on FaceBook or anything else.

MR. AMATRUDA: Thank you.

MS. FARHADIAN: I have one more question.

Through her FaceBook page --

MR. ROYCE: Judge, who is this coming in the courtroom?

MR. RINALDO: I think Christie knows about it.

MS. FARHADIAN: My understanding of FaceBook is, sometimes when friends with someone, you can see their friends when they give you access. Not everyone does that.

THE PROSPECTIVE JUROR: Right.

MS. FARHADIAN: Do you happen to know if you are able to see Ms. Robinson's friends through FaceBook?

THE PROSPECTIVE JUROR: I can't say that I know. I wouldn't look through her friends list. I'm not sure if it's available for everybody to see. You can always unfriend a person if you don't want to speak. I can do that and not communicate with her at all for the duration of the case or anything like that.

MS. FARHADIAN: Thank you.

THE COURT: Thank you very much.

Before the lawyers break up, I see that a few of the jurors have been getting up and been taking some leisure breaks, so I'm just going to ask them to remember where they are sitting, and I'm going to give them like a ten-minute nature break.

MR. RINALDO: One thing we're going to mention right now from the defense side: We have a witness who arrived here who we subpoenaed. We just want to talk to him briefly. Obviously, we had to subpoena him for the trial date. We're going to need you to advise him he remains under subpoena and on call, and then you can release him.

MR. ROYCE: He's sitting outside now.

THE COURT: All right.

Let me have the jurors have their break, and bring him in right away. I happen to have somebody upstairs, too. I did see there are four or five jurors who have been getting up.

(Continued on next page.)

(In open court.)

THE COURT: Okay. Ladies and gentlemen, so we are going to take a little bit of a break now because I see some people are feeling a little bit restless and maybe you need a little nature break. Okay? So I am going -- that clock actually has been corrected. We have a problem with that clock. It never has the right time, but I am going to ask you to come back here in about ten minutes. We do have rest rooms out here. There's a men's room and a ladies' room. Remember where you are sitting, okay, because when you come back, we are going to ask you to sit in the same seats.

All right. So just wait outside and we will call you to come back inside when we are ready for you, but, remember -- wait a minute. I told you I was going to tell all of you this, right? When you take this break, you can't talk about the jury selection process or -- you do not know anything really about the case at this point. You can't talk about the case, can't look at or listen to or do any kind of research over any kind of media that you may have access to.

All right. So I will give you 15 minutes. Let's come back here at about 11:40. All right? Okay. And just remember where you are sitting because that is where you are going to sit. Come back into the courtroom at 11:40 just to be clear. Okay?

(Prospective jurors exit.)

THE COURT: For the record, all of the jurors are outside of the courtroom. You can have a seat.

You want to go get your witness?

MR. RUSSELL: Your Honor, both Mr. Taylor and Mr. Pinkney need to go to the restroom, but we can do that after. I just wanted to let the Court know.

THE COURT: Yes. What I don't want is to have the witness coming in when the jurors are coming in.

(Pause.)

THE COURT: Come to order. We are back on the record.

As I said, the jurors are not present. Defense counsel, you have an application?

MR. RINALDO: Judge, we had subpoenaed a witness. Obviously the date we used on the subpoena was the date of the beginning of jury selection. The witness is here, Mr. Jason Diaz. He honored the subpoena. Obviously, Judge, we don't need him today, but we would like the Court to advise him just really in terms of his obligations, that he's still under subpoena, remains under subpoena, and just to keep himself available if we do intend to call him.

THE COURT: Mr. Diaz, hi, good morning, sir.

MR. DIAZ: Good morning.

THE COURT: I am Judge Irizarry and I am presiding over this case and I just want to make sure that you understand what Mr. Rinaldo has said.

You have been requested to appear as a witness in this case and we are just in the beginning of the trial, so I cannot tell you for sure what day it is that we will need you, but you do have to remain available to testify at this trial assuming that the defense still wishes to call you. Okay? That's ultimately a decision that the defense attorneys are going to make, but they need to be able to reach you and communicate with you and you will need to appear here on whatever day it is that it is requested. Okay?

MR. DIAZ: Yes, Your Honor.

THE COURT: Okay. Thank you.

MR. RINALDO: Thank you, Judge.

THE COURT: Thank you.

Thank you, sir.

MR. RINALDO: Thank you, Judge.

(Recess taken.)

(In open court.)

THE COURT: This is a case on trial continued. All the parties are present.

Do the parties agree that all of our prospective jurors are present and properly seated?

MR. AMATRUDA: Yes, Your Honor.

MR. RUSSELL: Yes.

MR. RINALDO: Yes.

THE COURT: Okay. Welcome back, ladies and gentlemen. Just a couple of things and I apologize because I should have mentioned this to you before.

I have instructed the parties that they are not to have any kind of communication at all with any of the prospective jurors. That means even something as simple and as civilized as a hello or a good morning or a good afternoon and I am going to ask you all to do the same thing, not to have any kind of discussion, even something as simple as a greeting to any of the parties that are here or any of the court staff and that's because jury selection is a bit of a complicated process and we want to make sure that we get a jury, that it is fair and impartial and this is just another way that we can ensure the impartiality of the jury. It's not that I want to encourage people to be rude or unsociable, but it is just one of the ways that we have to make sure that our jurors remain free from any kind of potential influence.

So, I know it kind of cuts against most of the habits that we all have, but please don't speak to any of them. They are not going to speak to any of you. That will go for witnesses too if you are chosen to serve on the jury. That will go for any of the prospective witnesses as well.

All right. So I hope everybody is all put together again and had a chance to stretch a little bit and we are going to continue to move forward and we are up to our juror number 35.

You had left the question about education blank and we were just wondering what, whether you with went to school and what's the highest grade that you completed in school for Juror Number 35.

I'm sorry? I can't hear you.

THE PROSPECTIVE JUROR: One year of college.

THE COURT: You got one year of college?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. And you mentioned that you have a son who is a corrections officer.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you ever get to talk to your son about the work that he does?

THE PROSPECTIVE JUROR: No.

THE COURT: Do you get to see your son fairly frequently?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And is there anything at all about the work that your son does that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: And you also told us that you had been a victim of some violence sometime ago, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. And did you ever report those incidents to the police?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And how do you feel about the way that they responded in those situations?

THE PROSPECTIVE JUROR: In a fair way.

THE COURT: And was the person ever arrested?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And did you have to go to court and testify?

THE PROSPECTIVE JUROR: No.

THE COURT: And ultimately, was the person convicted for what was done to you?

THE PROSPECTIVE JUROR: No.

THE COURT: And how do you feel about the way that the criminal justice system responded to your situation?

THE PROSPECTIVE JUROR: To my satisfaction.

THE COURT: Okay. Is there anything about the experiences that you had with that situation that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned also that the daughter of a friend of yours was stabbed.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did the daughter survive?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did they ever find the person who did that?

THE PROSPECTIVE JUROR: They believe they found the person, yes.

THE COURT: Do you know whether that person ever got sent to prison or went to trial or anything like that?

THE PROSPECTIVE JUROR: I, I don't know about the process, what status is now, but that was the recent situation of the two kids that were stabbed in the elevator.

THE COURT: Oh, okay. That was just, what, a month ago, something like that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I see. And were you a witness at all to anything that happened in that situation?

THE PROSPECTIVE JUROR: No.

THE COURT: And are you very close to that friend?

THE PROSPECTIVE JUROR: Somewhat.

THE COURT: Okay.

THE PROSPECTIVE JUROR: She's a neighbor.

THE COURT: She's a neighbor. All right. And is there anything at all about what happened to her and the daughter, and obviously there was another child that was involved, anything about that that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: Anything at all about the nature of the charges here that you think might affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: And you also told us that you had a brother who was sent to prison, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And how long ago was that?

THE PROSPECTIVE JUROR: That was 30, 40 years ago.

THE COURT: Oh, a long time ago.

THE PROSPECTIVE JUROR: He's since passed.

THE COURT: He's passed since then?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And do you recall anything at all about his case and what it was about?

THE PROSPECTIVE JUROR: No. No.

THE COURT: Do you know whether it involved drugs or anything like that?

THE PROSPECTIVE JUROR: Drug related, yes.

THE COURT: It was drug related. And is the fact that there are drug related charges here, would that affect you in any way to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: And you also mentioned that you had been arrested once for assault. What happened with that? What happened?

THE PROSPECTIVE JUROR: It was dismissed provided I stayed out of trouble for six months.

THE COURT: Okay. Was it like a neighborhood situation, something like that?

THE PROSPECTIVE JUROR: Yes. It was -- my landlord harassed me, coming into the apartment, claiming he needed to fix something when he gained entry. It was sexual harassment.

THE COURT: I see. Okay. How do you feel about the way you were treated in that situation?

THE PROSPECTIVE JUROR: Fair.

THE COURT: Okay. Anything at all about that that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: There was a question, if you remember in the questionnaire, there were some questions about whether you had any experiences relating to gang activity in the neighborhood, just sort of generally, you know, from being in the neighborhood. You said something about living around or within the same area but I wasn't sure what you meant.

Can you just explain? Do you mean the same area where this case took place or --

THE PROSPECTIVE JUROR: No, not this case. Just basic knowledge of their presence.

THE COURT: I see. Just sort of generally in the neighborhood?

THE PROSPECTIVE JUROR: Yes. Yes.

THE COURT: I see.

And you mentioned that you yourself had -- you're in recovery yourself, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Forty years ago?

THE PROSPECTIVE JUROR: Forty-two years.

THE COURT: Good bless you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: And you mentioned that you had an issue with heroin at the time?

THE PROSPECTIVE JUROR: Yes, heroin and cocaine.

THE COURT: And you heard me mention that some of the charges here may also involve cocaine and heroin?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And charges of distribution?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And also some homicides related to that business.

Is there anything at all about that and the experiences that you may have had 40 years, 42 years ago that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you, ma'am.

(Continued on next page.)

THE COURT: Juror 36, good morning.

You told us that your home was burglarized at some point. Were you home when that happened?

THE PROSPECTIVE JUROR: No.

THE COURT: Was anybody in your family home when that happened?

THE PROSPECTIVE JUROR: I'm sorry. On one occasion, everyone was asleep. They broke into the garage, took some things and went out.

THE COURT: Okay. But no one was in the home proper where it actually happened?

THE PROSPECTIVE JUROR: No.

THE COURT: I see.

Was anyone ever arrested as a result?

THE PROSPECTIVE JUROR: No.

THE COURT: First of all, did you report it to the police?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. How do you feel about the way that the law enforcement responded?

THE PROSPECTIVE JUROR: Not much you could do, I guess, in a situation like that.

THE COURT: Okay. Is there anything about that that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: You also mentioned that you testified in a case concerning a guardianship.

THE PROSPECTIVE JUROR: Yes.

THE COURT: That was in state court?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Were you grilled by the attorneys?

THE PROSPECTIVE JUROR: No.

Actually, I was replacement guardian for that individual. I testified for the previous guardian.

THE COURT: Okay. I see.

Are you still in that capacity as a guardian?

THE PROSPECTIVE JUROR: My ward is diseased now as of April 2nd.

THE COURT: Okay. Is that something that you have done on other occasions, serve as a guardian?

THE PROSPECTIVE JUROR: No, just this once.

THE COURT: Was that for a family member?

THE PROSPECTIVE JUROR: No; a close friend.

THE COURT: Close friend.

All right. Having had the experience -- when you testified, was that in a courtroom proceeding?

Was there a judge there?

THE PROSPECTIVE JUROR: There was a judge and a handful of people.

THE COURT: Not in a situation where there was a jury and all of that?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. But you were asked questions by lawyers, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Of course, there are going to be witnesses who are going to come and testify and they are going to be questioned by the lawyers and sometimes the questioning can get a little stern and a little heated.

Is there anything about the experience that you had, having been a witness, that you think might make you feel a little bit more sympathetic towards someone who is in that situation?

THE PROSPECTIVE JUROR: Not really.

THE COURT: Okay. You would be able to assess their testimony the same as you would anybody else, just based on what they say and how they say it? Obviously, you could take into account their demeanor, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You did raise a concern, and some of the other jurors raised a similar concern, so for those of you who raised that concern, I am going to address it now.

A few of put down that you could not sit on a case where there was a death penalty on the table. This is not a death penalty case. So for any of you who had that concern, this is not a death penalty case, so you could just forget about that.

Having heard that, would you be able to sit on this case as a fair and impartial juror.

THE PROSPECTIVE JUROR: I believe so.

THE COURT: Number 36?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Again, I remind you all, as I said a little bit earlier today, that a jury has to render its verdict free from any kind of sympathy or bias or any kind of prejudices that you may have about anything at all.

Among the things that the jury cannot consider is the question of punishment because if there is going to be any punishment, assuming that the government has sustained its burden of proof beyond a reasonable doubt, the jury unanimously decides that the government has done that, then punishment is going to be up to the Court alone.

Is there anyone who would have any problem at all sitting on this case without thinking about questions of punishment?

If I could see by a show of hands?

Okay. So we are all clear, that there is no death penalty so you don't need to worry about that. Some of you did raise that as a concern.

You also mentioned that you had -- let me actually speak to you together with counsel here on the side.

(Side bar.)

If you can step up, please, sir.

You had also mentioned that you had spoken to a Detective Ryan concerning a fatal collision somewhere in the neighborhood, I guess?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you know what the first name of that detective was?

THE PROSPECTIVE JUROR: Actually, I don't.

He left a card on my door, is what happened. I had a security camera that was pointing at that corner and he asked me did the camera record anything. I looked over the tape and said I didn't see anything on it.

THE COURT: I see. Okay.

Do you have a first name for Detective Ryan? Because it is not on the schedule that was given to the jury.

MR. AMATRUDA: If I can just ask the agent? I think he might have it. Excuse me.

THE COURT: Okay.

(Pause.)

I'm sure there are many Detective Ryans in the police force.

THE PROSPECTIVE JUROR: Maybe there aren't.

(Pause continues.)

MR. AMATRUDA: It's William or Billy.

THE COURT: William or Billy Ryan?

THE PROSPECTIVE JUROR: Doesn't ring a bell. Didn't mention a first name.

THE COURT: Without giving us the specific address, what borough was this?

THE PROSPECTIVE JUROR: Brooklyn.

THE COURT: It was in Brooklyn.

THE PROSPECTIVE JUROR: I spoke to him on the phone. I didn't meet with him personally. He asked me a few questions and that was all.

THE COURT: Is there anything -- well, let's assume, for example, at the outside chance, you get on this jury and Detective Ryan does come in and take the stand, would you be able to set aside whatever experience you may have had speaking to him on the phone and listen to his testimony just based on what comes from the witness stand?

THE PROSPECTIVE JUROR: It wasn't much of an experience, honestly.

THE COURT: You also mentioned that you had some personal experience with a close member or family member or close friend with alcoholism.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is that person in recovery?

THE PROSPECTIVE JUROR: No. Actually, it's a friend of mine in Massachusetts. I dealt with him a number of times and couldn't take the alcoholism. I had to just kind of leave him.

THE COURT: Is there anything about that experience that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: I'm just trying to think of it in what capacity. Other than obvious pretty tough to deal with alcohol, they need treatment like everyone else. As far as impartiality, I am not sure what you mean.

THE COURT: I guess the reason why I ask about that is because alcoholism is an addiction and this is a drug case and people addicted to drugs.

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: It's an illness, alcoholism and drug addiction, regardless of what the substance is, it is pretty much the same kind of a thing. That's why I am asking that. Because it may be an easy thing to sort of transfer a feeling about alcoholism to drug addiction.

THE PROSPECTIVE JUROR: Yes.

THE COURT: And the charges here do involve distribution so that's why I am asking you, whether you think anything about that might affect the nature of the charges, basically, given the experience you had with your friend?

THE PROSPECTIVE JUROR: I will do the best I can. I am thinking in terms of a person who is addicted, not -- I'm trying to think of how to put this. If somebody is addicted, it's like either they want the help or they don't. If they don't want the help, there is nothing you can do for them.

THE COURT: I guess the other way is that, to put it a different way, the defendants are accused of distributing drugs or selling drugs. There may be people who have a feeling that you know what, my friend or someone close to me is addicted because somebody sold them this stuff. This is not the place to seek retribution for whatever may have happened to a friend or to a loved one or to make a political statement.

THE PROSPECTIVE JUROR: I understand.

THE COURT: And just to assess the case on the facts.

Would you be able to do that?

THE PROSPECTIVE JUROR: Yes, I can do that.

THE COURT: All right. Thank you.

Have a seat.

(Juror leaves side bar.)

MR. RINALDO: Judge, I think this is important to put this on the record.

I don't know who was in the courtroom. Carl and I were in the courtroom when the jurors were asked to leave and we came back in. The defendants were here and juror number 20 was -- somehow wandered back in at his seat.

What happened, as we noticed that he was there, Christy I think got up quickly to address that issue. But the marshals were just then getting up in the process of taking the defendant, opening the door and bringing them out. He was watching that. We saw him do that.

So at this point I -- certainly you could question him but at this point I am concerned that as --

THE COURT: I think he has two problems. He's got a language problem and he's got the discussion with the wife problem and, frankly, if there was a challenge for cause, even on that ground, I would entertain that. Because I think he's got real problems.

MR. RINALDO: I just don't want him tainting -- the possibility of any taint with the rest of the panel in case they --

THE COURT: Which is part of the reason why I explained to them that they can't discuss anything that goes on here with anybody else. I just don't want to raise it in a way that affects any of the other jurors. They may not know what that room is.

MR. RINALDO: I understand that.

My concern is that if -- when we break the next time we break, that there is a possibility of him maybe mentioning something. If he could just -- if we can excuse him sooner rather than later. That's my point.

I don't know if anybody else has anything.

THE COURT: Once they get excused, they are not going to come back. If you want, we can -- I don't want to take up too much time now. I really would like to go through as many of these people rather than have them come back.

MR. AMATRUDA: I think the way that the marshals were bringing the defendants back, they weren't in handcuffs. They just opened the door and they left.

THE COURT: That's why I say, bringing more attention to it might make it worse.

MR. RINALDO: I don't want to bring attention to it. Just excuse him and let him go home as quickly as possible so that there is no more --

THE COURT: I don't want to start excusing people now because people are going to start figuring out the why's and the wherefore's.

MS. FARHADIAN: The next person will say, I talked to my wife too.

THE COURT: They may think that's the deal. He's got other issues too; the language, more importantly.

MR. JASPER: Just very briefly, since we know a little bit about the incident, the lack or lack of experience with this Detective Ryan, can the government find out through Agent McNally by contacting that detective if he has any recollection of --

THE COURT: Of investigating some kind of fatal collision? We don't even know how recently that was.

MR. JASPER: I just thought it might be worth it.

THE COURT: I can ask the juror how recent it was.

MR. AMATRUDA: I think what's important about that, and we can discuss this later, but I think what's important about that is he doesn't really remember having much interaction with him. He left a card and they had a phone call. It doesn't seem like even if he recalls the incident, which I don't think he will, he's retired.

THE COURT: I can just ask him to put it into some sort of timeframe and then the government can go back and ask the detective.

MR. JASPER: Thank you, Judge.

THE COURT: Because we are not going to exercise peremptories today. That will be done tomorrow morning.

(In open court.)

THE COURT: Juror 36, if I could just ask a quick follow up question.

With respect to the collision that the inquiry was made about, how long ago was that?

THE PROSPECTIVE JUROR: Oh, a month maybe, two months.

THE COURT: A month or two ago?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Juror number 39, good morning. No. Good afternoon now.

You have a niece who has been an attorney for New York State for eight years.

Is that as a court attorney or for a judge, do you know, without telling us any specifics?

THE PROSPECTIVE JUROR: She works for or she previously worked for a law firm in Manhattan, doing bankruptcy type law.

THE COURT: All right. Now she is working for the courts?

THE PROSPECTIVE JUROR: Now she is working in -- at a college.

THE COURT: Okay. She is teaching?

THE PROSPECTIVE JUROR: She is a rector at a residential hall.

THE COURT: Okay. You got attacked a couple of times in college and then in your workplace and is there -- what happened in those cases?

Did the police get called in?

Were the persons arrested.

THE PROSPECTIVE JUROR: In those two cases the police got called in.

THE COURT: Were the perpetrators arrested?

THE PROSPECTIVE JUROR: In the first instance, no. In the second instance, yes.

THE COURT: I think in connection with the second one you said that you had been expecting to be called as a witness but did you ever get to testify?

THE PROSPECTIVE JUROR: I was subpoenaed as a witness. I showed for the trial. Unfortunately, the defendant did not and then there was some discussion between the judges and the attorneys and the charges were dismissed.

THE COURT: Okay. How do you feel about these experiences that you had, very different experiences in each case?

THE PROSPECTIVE JUROR: Well, in the first instance, I thought that the -- what was done was all that could be done. In the second case, I thought much more could have been done.

THE COURT: Is there anything at all about either of those two experiences that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: It is hard to say.

THE COURT: Well, we can't know what is going on in your mind. So that's why we ask you these questions.

The question is whether there is any kind of -- is there anything about, particularly I guess the second experience, where there was someone who was found and charges brought and then ultimately it fizzled, right, into nothing, whether that is something that might affect your ability to be fair and impartial to the government or to police officers or to the defendants?

THE PROSPECTIVE JUROR: In the present case, no.

THE COURT: So would you be able to asses this case just on the facts that are presented here?

THE PROSPECTIVE JUROR: I think so.

THE COURT: Okay. Without thinking about what happened to you?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You never got to testify in a grand jury or anything like that?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Thank you.

Juror number 41, good afternoon.

You had a nephew who applied, I guess, to the police department?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know anything about the results of that application.

THE PROSPECTIVE JUROR: He's just waiting.

THE COURT: He's just waiting. Okay.

You have a lot of stuff happen to you when you were in Arizona.

THE PROSPECTIVE JUROR: Yes.

THE COURT: I am assuming all those -- you had your car stolen a few times, your home was invaded a few times.

THE PROSPECTIVE JUROR: Twenty years, when --

MR. HERMAN: Can't hear.

THE COURT: We need for you to speak a little bit louder.

You said 20 years what?

THE PROSPECTIVE JUROR: I moved back to New York in '96. After I wrote that down, you know, and I had forgotten, I -- I lived in the middle of a gang neighborhood at the time. I mean, it was constant. I got robbed constantly.

THE COURT: That kind of brings up one of the other questions that you responded to. You mentioned that you were living in a neighborhood where there was a lot of gang activity.

Is there anything at all about that experience -- I know it has been almost 20 years -- that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

(Continued on next page.)

THE COURT: And you had a stepson that was involved with the Hell's Angels. I have not heard that term in a long time.

THE PROSPECTIVE JUROR: Yes.

THE COURT: For selling drugs; for selling drugs, you said?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know anything at all about his case, the specifics of that?

THE PROSPECTIVE JUROR: When I married my husband, he was fourteen. I knew him as a child.

THE COURT: And then something happened when he got older?

THE PROSPECTIVE JUROR: He was good.

THE COURT: Anything that happened to him that would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: I think he should have went to jail for what he did.

THE COURT: I think you mentioned that you'd seen life from both sides?

THE PROSPECTIVE JUROR: When I got robbed, I was in the house. The police unit was there. They had a stakeout. I was pregnant. My child was a baby. I kept telling my husband, I hear noise upstairs. So, he went out in the backyard, finally, and the door opened, and it was like a big door, and the cops went, Who are you?, and they could have shot him. At the time, I was young and I was just shocked. Years later, you think, What the heck? Luckily, we were not gun people, because a lot of people in Arizona had guns.

THE COURT: Right.

So --

THE PROSPECTIVE JUROR: They were nice policemen.

THE COURT: So, your husband explained that he lived there?

THE PROSPECTIVE JUROR: It was my neighbor that did it, my next-door neighbor.

THE COURT: Were charges brought against your neighbor?

THE PROSPECTIVE JUROR: Against the person that robbed us?

THE COURT: Yes.

THE PROSPECTIVE JUROR: Yes. They arrested him. They caught him.

THE COURT: They caught him. Okay.

THE PROSPECTIVE JUROR: In my backyard.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: They caught him in my backyard.

THE COURT: Okay. Overall, is there anything about all these experiences that you had that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No. I feel like I've seen both sides.

THE COURT: You've been both a victim, and you have also been confronted by the police to a certain degree?

THE PROSPECTIVE JUROR: Right.

THE COURT: And you heard my statement about the fact that there is no death penalty here?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, you don't need to be concerned about that. I just wanted to follow up.

You had a grandson who was supposed to visit?

THE PROSPECTIVE JUROR: He's not going to come.

THE COURT: He's not going to come. Okay.

And you mentioned something about, just sort of there was a general question asking people about any experiences that they may have had with people who have used drugs or things like that, and you mentioned that you know what drugs and alcohol can do, I guess the effects that that can have?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you've heard me mention that the charges here do involve drug distribution. Is there anything at all about the charges that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you.

Juror No. 43. You have an uncle and some friends who are attorneys. Without giving us their names or the names of the firms or agencies that they may work with, do any of them do any criminal law practice?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do any of them talk with you about their practice?

THE PROSPECTIVE JUROR: No.

THE COURT: Do they do prosecution or defense work?

THE PROSPECTIVE JUROR: I think my uncle does more -- I think his focus is more real estate and other things like that. But I think periodically, something happens.

THE COURT: Like maybe for a client?

THE PROSPECTIVE JUROR: Yes. But it's not his normal practice.

THE COURT: And you mentioned that your husband was robbed a couple of times. Could you tell us a little bit more about that?

THE PROSPECTIVE JUROR: I think one time, coming out of work, someone came with a gun and took his wallet. And then I think one time in front of our house, somebody -- the same sort of thing happened. But he was never hurt.

THE COURT: Was it reported to the police?

THE PROSPECTIVE JUROR: Yes, it was.

THE COURT: Was anyone ever arrested?

THE PROSPECTIVE JUROR: I don't believe so.

THE COURT: How do you feel about the way that law enforcement responded to both of those situations?

THE PROSPECTIVE JUROR: I think he felt it was appropriate.

THE COURT: Is there anything about those experiences that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned that you know some people who smoke pot. That's probably true for most people in the United States, depending on what generation you are from. Is there anything about that that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Have any of them ever actually been arrested as a result?

THE PROSPECTIVE JUROR: No.

THE COURT: You did mention, in connection -- there was a question -- for the lawyers, it's number 49 -- and the question was that the evidence in this case may include information provided or obtained by individuals who participated in some of the crimes charged in the indictment.

These witnesses have pled guilty and are testifying pursuant to cooperation agreements with the government in the hope that their own sentences will be reduced. It is permissible for the government to present such witnesses before a jury to rely on their testimony in reaching a verdict.

And then the question is: Do you have any beliefs or opinions that would affect your ability to evaluate testimony from such witnesses fairly and impartially? You said that you might be a little suspect of their testimony, as they are cooperating witnesses.

Do you want to elaborate a little bit about that?

THE PROSPECTIVE JUROR: I guess if somebody is -- someone is a criminal and they are told if they testify they get off, I don't know -- I don't know if they are encouraged to say something one way or the other, or they just have to tell the truth. I don't know how the whole things work. It sounds a little --

THE COURT: It was an unfair question of me to throw it out there like that in a void.

Let me put it this way: At the end of the case, I'm going to be giving the jury instructions on the law. Included in those instructions are going to be some guides, if you will, as to how the jury is to assess the testimony of witnesses and other various different kinds of evidence that may get introduced. And right now, your guess is as good as mine. I don't know whether some of it is going to be in documents, you know, hard evidence, like an actual item, or whether it's just going to be testimony or it could be a combination of that.

So, I'm going to be giving the jury instructions for some sort of guidepost, if you will, that they could use for assessing the evidence. And so the jury can take into consideration, for example, the demeanor of the witness, you know, how does the witness testify? Does the version of that witness's account of a series of events, does it seem logical? Does it seem consistent? Does it jibe with other evidence that's been presented?

And in connection with what are called accomplice witnesses, which is what we're talking about here, the jury will be told that, of course, you have to take certain special care in assessing the testimony of that witness, and as with any other witness, you can take into consideration whether that witness has an outcome -- has an interest in the outcome of the case, and whether or not, the bottom line is, you feel that that witness has testified truthfully, either completely or in part, because you can feel that a witness has testified completely truthfully and accept everything that that witness says, or you might feel that the witness has not testified truthfully and reject everything that that witness says, or you could feel that in some respects the witness has told something that's true and other things that are not true, and you can just reject what you think is not true and accept what you think is true.

So, given that instruction, do you think you could follow my instructions and assess the testimony in an open-minded and fair and impartial way?

THE PROSPECTIVE JUROR: I could.

THE COURT: Yes?

THE PROSPECTIVE JUROR: Definitely.

THE COURT: You said you need to walk at lunchtime. Can you elaborate a little bit about that? Our jury is going to be kept together during the lunchtime, but we can -- certainly, there are -- I myself need to be able to get up and stretch and move a little bit.

THE PROSPECTIVE JUROR: I mean, I've had two back surgeries. I couldn't sit for eight hours straight during the day. I don't need to cross the bridge. I need to get up and move.

THE COURT: You need to be able to move and so on?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I think that's something that we can accommodate. I have had many jurors who have been in that situation or who have arthritis or things like that, and we will take breaks like we did some morning. We'll take breaks mid-morning, the lunch break, and a break in the afternoon.

So, you wouldn't be sitting -- believe me, I couldn't do it, either. I would not be able to stand up afterward. So, we can accommodate that.

And I am hopeful -- I know that the 22nd, you have to take your son to college. Is that around the date?

THE PROSPECTIVE JUROR: We have to leave at the very latest on the 25th of August.

THE COURT: Okay. I'm hopeful that the case will be done before the 22nd. If not, perhaps that is something that we might be able to accommodate.

Would you be coming back the next day?

THE PROSPECTIVE JUROR: We have to be there the 25th -- the 26th and 27th. It's in Ohio. We would have to get there, be there on the 26th and 27th, and then come back.

THE COURT: I'm really -- this case should be done before that.

THE PROSPECTIVE JUROR: It's my firstborn.

THE COURT: Okay. You're having separation anxieties already. Thank you very much.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: I'm going to ask the lawyers to come up with the reporter.

And Juror 47, if you can come up.

THE PROSPECTIVE JUROR: Sure.

(Sidebar.)

THE COURT: Hi.

THE PROSPECTIVE JUROR: Hi.

THE COURT: I just wanted to follow up. You responded -- there was a question whether you had any opinion about whether or not the defendants are guilty of the crimes charged as they sit here right now, and you said that their body language looks suspicious.

THE PROSPECTIVE JUROR: Their body language looks very suspicious. The defendants were very stoic throughout the whole proceedings. When you read the charges, conspiracy to murder, murder, distribution of drugs and everything, they started fidgeting. Maybe they were just shifting in the chair. It seemed very suspicious to me. It did allow me to form a little bit of a bias at that.

THE COURT: I mean, people react to -- obviously, this is a serious situation.

THE PROSPECTIVE JUROR: Right.

THE COURT: And people can react to serious situations in different ways. Some people, when they get nervous, they laugh and they can't help it.

THE PROSPECTIVE JUROR: Sure.

THE COURT: It's the way that they react. It doesn't necessarily mean that they are not taking the situation seriously. Would you be able to, if you were chosen to serve on this case, would you be able to just judge it on the evidence that's presented, and not based on --

THE PROSPECTIVE JUROR: I think I could probably base it on the evidence and the testimony and that sort of thing, yes.

THE COURT: -- regardless of whether they are sitting and fidgeting or looking one way or the other? Honestly, I don't know how a person is supposed to look when charges like that are being raised. I'm not sure if you have some idea of what you were expecting.

THE PROSPECTIVE JUROR: That's a good question. No. It's like, do I have -- how should an innocent person act? Really, there's no answer. So, I mean, the other thing, I'm listening to testimony, I'm probably going to be watching for body language, I'm going to be very subjective, if the witness is telling the truth. So.

THE COURT: Do you have any questions?

MR. HERMAN: You told us that you had an opinion -- I'm reading your questionnaire.

THE PROSPECTIVE JUROR: Okay. I suppose opinion in the context of a bias that was formed. I guess that's kind of what I meant as an opinion.

MR. HERMAN: What was your opinion?

THE PROSPECTIVE JUROR: My opinion was that it was suspicious that their body language shifted.

MR. HERMAN: We asked you at this point in time, at that point, do you have an opinion about whether any of the defendant are guilty of the crimes charged, and you said, yes. You checked, yes.

THE PROSPECTIVE JUROR: I see.

MR. HERMAN: We're looking for an honest answer here.

THE PROSPECTIVE JUROR: I guess at the time, I did think it was. I guess I did form an opinion at that point.

MR. HERMAN: Do you still have that opinion?

THE PROSPECTIVE JUROR: To be honest with you, no. No, I don't, really.

THE COURT: Anything else that you would like to ask?

MR. AMATRUDA: Thank you.

THE PROSPECTIVE JUROR: Thank you. Okay.

(In open court.)

THE COURT: Juror No. 48.

THE PROSPECTIVE JUROR: Hi.

THE COURT: Good afternoon. You said that there's a possibility that you might not be available on the week of August 13, but you didn't really tell us what was going on.

THE PROSPECTIVE JUROR: It's a work conference based on nothing finalized yet.

THE COURT: Is that something that you would have some input on, that you could maybe ask them to put it off until later on in August?

THE PROSPECTIVE JUROR: No. It's a yearly thing. It is when it is. They didn't decide -- they have not selected a member from our team to attend it.

THE COURT: If you were chosen to serve, is there somebody that they could send?

THE PROSPECTIVE JUROR: Correct.

THE COURT: Okay.

You also mentioned you had some problems sitting for a long time. If I give breaks, like I mentioned before, it would be okay?

THE PROSPECTIVE JUROR: It should be okay.

THE COURT: Thank you.

Juror No. 49. Hi.

THE PROSPECTIVE JUROR: Hi.

THE COURT: You mentioned that you had applied -- did you apply for the Police Department, or did you work for the Police Department?

THE PROSPECTIVE JUROR: I applied.

THE COURT: You applied. When was that?

THE PROSPECTIVE JUROR: Probably more than five years ago. When the salary was twenty-four thousand. I'm not sure when that was.

THE COURT: I can't help you with that one. I don't know.

THE PROSPECTIVE JUROR: Back then.

THE COURT: I think it's been a while, then. Okay.

And you had a brother who was shot, as well, after a party. Is he okay?

THE PROSPECTIVE JUROR: Yes, thank God, yes.

THE COURT: And was anybody arrested?

THE PROSPECTIVE JUROR: To my knowledge, no, not yet.

THE COURT: How long ago was that?

THE PROSPECTIVE JUROR: Four years ago.

THE COURT: Four years ago.

How do you feel about the way that that was handled by the police?

THE PROSPECTIVE JUROR: The little that I know, I think more should have been done or still should be done.

THE COURT: Well, is that something that you think might affect your ability to be fair and impartial here, in particular to evaluate the testimony of the police?

THE PROSPECTIVE JUROR: No.

THE COURT: And then you mentioned that you had been arrested and charged with a misdemeanor. What happened with that? What was it? What happened?

THE PROSPECTIVE JUROR: I was arrested. I used to work at Macy's on 34th Street, and I was arrested due to credit card fraud. (Continued on next page.)

THE COURT: What happened?
THE PROSPECTIVE JUROR: The case was dismissed.
THE COURT: The case was dismissed.
How long ago was that?
THE PROSPECTIVE JUROR: More than 10 years ago.
THE COURT: Anything about that, were you actually taken in?
THE PROSPECTIVE JUROR: Yes.
THE COURT: Did you spend overnight in jail too?
THE PROSPECTIVE JUROR: Yes.
THE COURT: And, when was it dismissed, right away?
THE PROSPECTIVE JUROR: No, not right away, I had to go to court.
THE COURT: And is there anything about that experience that you think would affect your ability to be fair in this case?
THE PROSPECTIVE JUROR: No.
THE COURT: And how do you feel about the way that your-- that your attorney handled the case? I assume you were represented, right?
THE PROSPECTIVE JUROR: Yes.
THE COURT: How do you feel about the way that the attorneys handled the case?
THE PROSPECTIVE JUROR: They did the right thing.
THE COURT: Then you mentioned that you were

summoned for an IRS trial, but it got postponed. Were you being called as a witness?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And, do you know when they are going to-- if they are going to have a trial or not?

THE PROSPECTIVE JUROR: They called me actually last week and it should be in two more weeks to call me again. I'm not sure exactly the date.

THE COURT: They said they would call you in two weeks.

THE PROSPECTIVE JUROR: Yes, because it was going to be a Friday, so it was short notice, in two more weeks they should call me again.

THE COURT: Is that going to be here in New York?

THE PROSPECTIVE JUROR: It will be in this Court, this building.

THE COURT: In this building.

You don't recognize any of the lawyers here, do you?

THE PROSPECTIVE JUROR: No. I've never seen a lawyer for that case yet.

THE COURT: You have not seen a lawyer for that case yet. Okay.

You also mentioned that you use to abuse alcohol and that you have been delivered from that. Congratulations.

THE PROSPECTIVE JUROR: Yes.

THE COURT: How long?

THE PROSPECTIVE JUROR: More than five years.

THE COURT: And, as I asked some of the other jurors, is there anything about that that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you.

And, juror number 50, let me ask you to come up with the attorneys.

(Sidebar.)

THE COURT: We will have you come up next to me over here.

So, you left out your age.

THE PROSPECTIVE JUROR: I'm 42 years old.

THE COURT: You should be very proud, nice looking 42 years old.

You mentioned that you know me from your employers, I guess the Brooklyn Bar Association.

THE PROSPECTIVE JUROR: Okay. I worked for the attorney, David Chidekel.

THE COURT: Okay.

THE PROSPECTIVE JUROR: So I worked for Mr. Chidekel, because at the Brooklyn Bar Association, the courts and other functions that he is in.

THE COURT: I'm trying to look at your face and I never forget a face, but I could not quite place you.

On page-- question 31, you left that blank. Let me remind you of what that was.

Are you still working?

THE PROSPECTIVE JUROR: Yes, I'm still working for Mr. Chidekel. I have been working 15 years for him. I have been thinking of retiring.

THE COURT: I think you are holding down the fort for him now.

His wife is gravelly ill.

MR. RUSSELL: I didn't know that.

THE COURT: 31-F, you left blank, all the law enforcement officers, F.B.I., Special Agent Thomas McNally.

THE DEFENDANT: I don't know him.

THE COURT: Detective Jeffrey Nixno(phonetic)?

THE PROSPECTIVE JUROR: I don't know him.

THE COURT: Anthony Viggiani, you don't know him?

THE PROSPECTIVE JUROR: No.

THE COURT: Those are all no.

THE PROSPECTIVE JUROR: That is -- I was confused.

THE COURT: Those are all, no.

And, question 57, you may have just not seen. That was left blank. The question is, will you have any difficulty not discussing the case with anyone except with your fellow jurors in the jury room after the Judge instructs you to begin deliberations. Can you do that?

THE PROSPECTIVE JUROR: I won't discuss anything with no one. The fact that I-- whatever case we have with my boss, I just-- it is between the office. It stays in the office, it does not go beyond the office.

THE COURT: Okay. You did mention that there might be a hardship because your boss is a solo practitioner. Are you the only one working in the office right now?

THE PROSPECTIVE JUROR: Right now, he has problems as you know. I informed him that I had to come in today, so he said, fine, do what you have to do. If you have to serve, I don't have a problem, you serve.

THE COURT: Do you have any questions?

MR. AMATRUDA: Judge, I may have missed this, but I think we talked about question 49, which was -- maybe left blank.

THE COURT: I didn't ask about question 49.

Yes. Question 49 was left blank. That was the question that I was just discussing about some witnesses who may have pled guilty and they will be testifying pursuant to a cooperation agreement. Do you have any kind of belief or opinion about that?

THE PROSPECTIVE JUROR: No, no opinion.

MR. RUSSELL: Can I follow up on something.

You said right now, who is running the office, no one?

THE PROSPECTIVE JUROR: Right now, Mr. Chidekel's office, right now he is not in. I am basically the one making every arrangement that needs to be done.

MR. RUSSELL: Did he discuss with you a long-term plan if you had to serve.

THE PROSPECTIVE JUROR: I explained that to him. He said if you have to do it, you have to do it.

MR. RUSSELL: Okay. That is very nice. But I know the reality of that one.

THE COURT: Any other questions?

THE PROSPECTIVE JUROR: 15 years already working for him.

MR. RUSSELL: I know.

THE COURT: Why don't you have a seat.

(Juror excused from the sidebar.)

THE COURT: I have to tell you honestly, I would feel very uncomfortable having her here as a juror.

MR. RUSSELL: She is the whole office.

MS. FARHADIAN: She is not anonymous any more either.

THE COURT: We could certainly seal this part of the record, but, I have a very close relationship with David Chidekel and his situation is not a good situation. I certainly would feel uncomfortable.

MR. JASPER: I think we agree to consent.

MS. FARHADIAN: We agree.

THE COURT: Let's keep it going.

(Open Court.)

THE COURT: I don't need the reporter for this. If I can just see the lawyers for one more second.

(Off record at the bench.)

THE COURT: I will need the reporter for a few minutes. Just bear with us.

(Sidebar.)

MR. RUSSELL: What we tried to do is just kind of go among ourselves and come up with a smaller number.

MR. AMATRUDA: These are some we just agreed to.

THE COURT: Okay.

MR. AMATRUDA: Both sides agree that 15, should be a cause on consent. That is the woman who does not speak English very well; 20, the man who tells his wife.

THE COURT: Yes.

MS. FARHADIAN: He was honest about telling his wife.

MR. AMATRUDA: And number 50, which was agreed on.

And then there are a couple more that we don't agree on that we would like to have Your Honor's help with.

THE COURT: Okay.

Let's take them one by one, okay.

So, number four, that is the lady whose husband has the low dose radiation every day.

MR. RUSSELL: We don't have an issue with it.

THE COURT: Okay.

MR. RUSSELL: We don't have an issue with it.

MR. AMATRUDA: We are okay with that.

THE COURT: I think she will try to accommodate whatever happens. The only concern I had with her is, you know, if it were me, I would be worried thinking day by day and it could be a little bit distracting.

MR. RUSSELL: A lot distracting.

THE COURT: So, I mean -- but it sounds like he is managing.

Number 7. Seemed okay to me.

MR. AMATRUDA: Yes.

MR. RINALDO: Yes.

THE COURT: I was concerned about the language problems for number 8.

MR. RUSSELL: Yes.

MR. AMATRUDA: We felt, Judge, that she has been here for 20 years, she works at a bank. She works on, you know, when she was trying to explain her thing. I think that is something that I think anybody even fluent English might have a hard time sort of explaining. It seems to me like she understood everything. It just didn't seem to-- she would have the ability to follow what was going on in the witness testimony.

MS. FARHADIAN: Unlike some of the others. We did think two other people did have trouble with language. But we thought she was different.

MR. JASPER: Her trouble was very high. When you asked her whether or not-- when you asked her whether or not, she sat on a criminal case, after having sat on a Grand Jury. She said it was a small case. It didn't seem like she had any clue what the Court was talking about.

THE COURT: I think she has a serious enough language problem to give the defendants a cause challenge. So she is stricken.

Number ten, I think is fine. She has got doctors' appointments for the kids, that can be rearranged.

MR. RUSSELL: Yes.

THE COURT: I didn't really see any other issues. I think she was rehabilitated with respect to the media issue.

So then we move to number 23. I thought she was fine.

MR. RINALDO: Yes.

MR. AMATRUDA: Yes, we will agree.

THE COURT: Okay.

Number 24. He is the one with the financial hardship.

MR. RUSSELL: As far as he is concerned, if he doesn't go to work he doesn't get paid. He is in a consulting position.

MR. RINALDO: I thought we left it with him, he is not getting paid flat out.

MR. RUSSELL: That's it.

THE COURT: Any issues with him? His wife only works part-time.

MR. AMATRUDA: That is fine.

THE COURT: So, defendants' cause is granted.

Number 27, I thought was okay.

MR. AMATRUDA: Judge, I think that it is a major, major issue that she is Facebook friends with Destiny Robinson and it is for a few reasons.

Destiny Robinson dated one of our cooperating witnesses. She is in regular contact with the defendant Shaun Taylor. There are going to be jail calls we will play between Shaun Taylor and Destiny Robinson at this trial.

And, there really isn't any way to control what Destiny Robinson is posting on Facebook. Destiny Robinson has a keen interest in what is going on in this trial. In fact, from the phone calls that I have listened to, the defendant Taylor basically is using Destiny as a way to get information about the government's case, who is cooperating and who is not.

I think if this -- so for two reasons, one is that she obviously knows Destiny, maybe not out in personal contact, but they obviously know about each other's lives. And Destiny Robinson, I don't think she will testify, she is going to be a figure in the trial. I think that one of the things that the defendant Taylor raises frequently in the phone calls, is that Tyler Briggs, the witness' testifying in part out of jealousy because of Shaun Taylor's relationship with Destiny Robinson.

I just think her friendship with Destiny is a big problem.

MS. FARHADIAN: If I may add one thing on behalf of the government. We have also seen Destiny come to court often. She was here last week and she will recognize this juror. She knows this juror's name. So I think that that raises some concerns as well about her being able to tell the defendant she is in regular contact with, the name and identity of this juror.

THE COURT: I think what is a bigger concern than the Facebook thing, I think is the juror, otherwise, I think sincerely would make an effort as she said to un-friend.

MR. RUSSELL: Right.

THE COURT: Destiny. Robinson is it?

MS. FARHADIAN: Yes.

THE COURT: But I think of all the points that the government has made, because I think this particular juror doesn't seem to have a close relationship and is sophisticated enough about Facebook and willing to shut down her access to Destiny Robinson's postings. But the bigger concern is that if she is going to be in court frequently, she is going to know who this juror is and there goes the anonymity.

MR. HERMAN: If she is on the witness list she can't be in court. She will have to be sequestered that is what we are assuming.

MS. FARHADIAN: That wasn't a witness list. That is a list of names you will hear at trial. I mean, at this point, I don't think we anticipate calling her, but she will come in and she knows this person's name as I said.

MR. HERMAN: We can tell her not to come in. If she is a potential witness she should not be in the courtroom.

THE COURT: I will grant the Government's challenge. That is number 27.

Number 35 I thought was okay.

MR. HERMAN: Yes.

MR. RINALDO: Yes.

THE COURT: Number 36, I thought was okay.

MR. RINALDO: Yes.

THE COURT: Number 39 was okay.

MS. FARHADIAN: Just, you asked us to inquire about Detective Ryan.

THE COURT: Yes.

MS. FARHADIAN: Our Detective Ryan lives in Tennessee now. He is retired. It is not the same person.

THE COURT: Okay, good. That was in connection with number 39, right?

MS. FARHADIAN: 36.

THE COURT: 36.

So, 41, I thought was okay.

MR. RINALDO: Yes.

THE COURT: 43 was okay.

MR. HERMAN: Yes.

THE COURT: 47. The body language guy.

MR. RUSSELL: I'm looking at his body language, he is looking at everybody else, I'm looking at his. Icksnay. You have their position.

THE COURT: I will hear from you.

MR. AMATRUDA: I mean he-- look, I think what Mr. Russell is referring to, he is an unusual person. The way he carries himself. I think that-- I think he said, he was going to be fair. He said he understood Your Honor's point when you explained it to him.

Mr. Herman asked him, do you have an opinion whether these guys are innocent or guilty. He said, no.

MR. RINALDO: He struggled with that answer.

THE COURT: I agree. I'm not certain-- how should I say, it is not clear to me based on his hesitation that he can set aside his suspicions.

So, the defendant's challenge for cause is granted. That is number 47.

And number 48, I thought was okay. The work thing is moot.

And number 49, I think is okay.

MR. HERMAN: Yes.

THE COURT: If she stays, we have to let her know, she has to tell the IRS, she is a juror. If they need her, they have got to bring her in on a Friday or wait.

Then 50, we have agreed that is a consent.

So then what we will do is the rest of the jurors that-- who we did not question, are going to go to lunch and come back here at 2:15. And, we will just reseat them.

I made up some signs for the jurors to put out there. That they are not to come in until they are actually brought in by court staff.

And then, the jurors who we have questioned today will come back tomorrow at 9:30.

I'm wondering, if we shouldn't tell them to come back in the afternoon, because we still have got another-- we have about half what we got today and then the 40 coming in this afternoon.

So we will tell them at 2 o'clock. We will still be in good shape if we finish tomorrow.

MR. AMATRUDA: Yes.

THE COURT: We won't have very much to go through with the pre-cleared people. It is not that many.

(Open Court.)

(Transcript continues on next page.)

(In open court.)

THE COURT: All right. Thank you for your patience, ladies and gentlemen. All right. We are going to take our break for lunch now.

So, we questioned about 18 of you. Those of you who are in the first three rows, okay, so you can go home. Those of you who we questioned, you go home, however, you have to call in that number that you were given by the jury clerk. You need to call that number every day. You will be told when you call that number whether you have to come back and if you do have to come back, what time and what day to come back. Okay? So, keeping in mind that we're not going to meet on Fridays -- this Friday is 4th of July. We're not going to meet on the days on Fridays anyway.

All right. So just to be clear, for our first 18 people in these first three rows, all right, you can go. Go straight home. All right. But you have got to make those calls to the number that you were given the same way that you called last week. Okay? And you will be given more specific instructions.

Yes, sir.

THE PROSPECTIVE JUROR: When do we begin calling?

THE COURT: After 5 o'clock.

THE PROSPECTIVE JUROR: Today?

THE COURT: Today. After 5 o'clock today, you will get a message that tells you whether or not you have to come pack and when you have to come back and what time. Okay? All right --

So, those of you who were questioned in the first three rows, you do not have to come back. The rest of you, okay, we are going to ask you to come back this afternoon at 2:15. So our last row here and our rows over here, okay, you have to come back to this, when you come back, just congregate outside. Do not enter until somebody from my staff tells you to come in. Okay?

All right. So 2:15. So enjoy your lunch. This is a lovely area. Okay? Enjoy your lunch. Be careful. Remember not to talk about this case or about the jury selection or anything you've seen. Okay? Take all of your belongings. Somebody left a bag. Be careful stepping down. Whatever you need to discuss, we will discuss this afternoon. We will discuss it this afternoon. Step out.

THE PROSPECTIVE JUROR: Okay.

(Prospective jurors exit.)

THE COURT: Okay. Let the record reflect that the jurors are no longer present.

Just so that the lawyers know, those are the instructions that we were given by the jury clerk and then we are going to give her the numbers of the jurors who have been excused for cause and the jurors who are going to come back tomorrow afternoon. Okay? So this way, she doesn't get rid of anybody per se until we actually tell them that they are excused. All right. So she keeps them calling. I will see everybody at 2:15.

All right. Marshals, you can take charge.

(Defendants not present.)

THE COURT: Apparently, Juror Number 48 waited until everybody got dismissed, he was one of the ones we were not dismissing, to say he has some issues with three other dates.

MR. RUSSELL: That's the one with the conference, right?

THE COURT: Right.

I don't know, he didn't ask so I didn't say, really.

MR. AMATRUDA: Your Honor, is it okay if we leave our stuff here during the lunch break?

THE COURT: Yes. Just don't leave any electronics or anything that you wouldn't want to lose.

(Luncheon recess.)

(Continued on next page.)

A F T E R N O O N S E S S I O N

(The following occurred in the absence of the prospective jury panel.)

(Defendants present.)

THE COURT: This is case on trial continued, voir dire continued.

Please, everybody, remain seated.

All the parties who were here this morning are present; defendants are present; the jury is not present.

Furthermore, there was another batch of 40 that were coming in this afternoon. They are actually down in the ceremonial courtroom. I think, just because it gets a little bit crowded over here and it will get a little bit crazy for seating purposes, we are just going to finish up with the next three rows of jurors from this morning. That should take us to about break time anyway.

I will let the attorneys exercise their cause challenges and then we can just let them go and then we will bring up the other 40.

Okay?

Is everybody ready?

We are going to reseat the jurors so that they are not out there. We are going to reseat them in the first -- they can actually go straight into the jury box, I guess. We have room for everybody in the jury box.

They will basically be in the same order as they were this morning. They are just going to be sitting here instead of out there.

(The following occurs in the presence of the prospective jury panel.)

THE LAW CLERK: We are gong to move everybody up.

THE COURT: Let them sit inside the jury box.

THE LAW CLERK: I think we only have room for everybody if we use all four rows.

THE COURT: Sir, wait, before you go all the way up there. Sir, wait, please. He was sitting in the back row with them.

THE LAW CLERK: You are going to be in this seat now.

THE COURT: Be careful, please.

I couldn't stop you fast enough. You were too fast for me.

In numerical order, please. 68.

THE LAW CLERK: Then 86 and following.

Those three seats, please.

And then the six of you, take the row right behind them and also stay in the order you are in.

Then the five of take the last row, please.

THE COURT: 106 will be closer over here.

THE LAW CLERK: That last seat will be empty.

THE COURT: Great. Thank you.

Do all of the parties agree that all of our jurors are present and properly seated?

MR. RINALDO: Yes.

THE COURT: The government?

MR. AMATRUDA: Yes, Your Honor.

THE COURT: And Mr. Russell?

MR. RUSSELL: Yes, Your Honor.

But if the Court doesn't mind, can I just get a number? I want to make sure I have the numbers right.

THE COURT: In the front we have, 52, 56, 59, 60, 64, 66.

Then behind in the second row, 68, 70, 84, 86, 90, 93.

Then 95, 96, 99, 100, 102, 105.

And then in the final row, 106, 117, 127, 128 and 136.

Okay?

MR. RUSSELL: Thank you.

THE COURT: Okay. Welcome back, ladies and gentlemen. I hope you had a nice lunch and stretched your legs a little bit.

We are going to continue proceeding as we did this morning.

Juror number 52, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: All right. We would just like to know a little bit about your job or whether you are working. It wasn't clear because you left 14 blank which says, if you are employed. And then 15 you answered -- are you retired?

THE PROSPECTIVE JUROR: No. I am retired but right now I am babysitting.

THE COURT: Right now you baby-sit?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. This is for a family member that you baby-sit?

THE PROSPECTIVE JUROR: No. It is a neighbor.

THE COURT: For a neighbor?

THE PROSPECTIVE JUROR: Yes.

THE COURT: That's your job?

THE PROSPECTIVE JUROR: Yes.

THE COURT: That's what you do?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What happens? Are you babysitting now?

THE PROSPECTIVE JUROR: No. I let her know because this jury duty procedure but they in school after five. So she put them in day care. I'd be able to pick them up if I leave here.

THE COURT: Okay. So if you leave here at 5:00 o'clock, you will be home in time to pick them up?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. It is not a problem if we start at 9:30?

THE PROSPECTIVE JUROR: Not a problem.

THE COURT: Okay. Terrific.

What did you do before you were babysitting, when you retired? What did you retire from?

THE PROSPECTIVE JUROR: I was a security guard.

THE COURT: You were a security guard?

THE PROSPECTIVE JUROR: Yes.

THE COURT: For a private company?

THE PROSPECTIVE JUROR: Yes. For stores, like Comp USA, Banana Republic.

THE COURT: For like department stores?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Are you married now? It wasn't clear.

THE PROSPECTIVE JUROR: I am single.

THE COURT: You are single?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. For number 16, it says if you are married or involved in a long term relationship, you --

THE PROSPECTIVE JUROR: I had a long-term relationship but not married.

THE COURT: Oh, okay. I wasn't sure.

Then you said, he has COPD? Do you mean he's disabled?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Your significant other is disabled? Okay. So he is not working at all?

THE PROSPECTIVE JUROR: No.

THE COURT: Then you mentioned that you had a baby brother who is in prison but that you did not know --

THE PROSPECTIVE JUROR: I understand, when I left here I talked to my mom about it. She let me know because I don't speak to him, ever seen him since he's 18. He is 37 years old now.

THE COURT: It has been almost -- more than 18 years.

THE PROSPECTIVE JUROR: 25-years-to-life.

THE COURT: Okay. Do you know what the charges are?

THE PROSPECTIVE JUROR: Murder.

THE COURT: Murder.

Before that, before you had to fill out this questionnaire, you didn't --

THE PROSPECTIVE JUROR: I never seen him.

THE COURT: Okay. Do you know if it had anything to do with narcotics?

THE PROSPECTIVE JUROR: To me, but I was told it was just over trying get money and wind up not getting money and it was too late, already did what he did and left the state. So --

THE COURT: It's a state --

THE PROSPECTIVE JUROR: He left the state. That's when they found him in another state.

THE COURT: Okay. Of course, you know that the charges here do involve allegations of murder, correct?

Is there anything about what happened with your brother, and the charges here, do you think would affect your ability to be fair?

THE PROSPECTIVE JUROR: No. Because it had nothing to do with me.

THE COURT: All right. Thank you.

Juror number 56, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: You mentioned one of the questions -- for the lawyers, it's 28 -- you mentioned that you are aware of gang activity and then you mentioned that you were afraid to be out at night.

THE PROSPECTIVE JUROR: Yes. Because I come home from work like 9:30, I get from the train and then I have to take a bus and I have to walk like three blocks.

THE COURT: Okay.

THE PROSPECTIVE JUROR: So I am scared, you know.

THE COURT: We discussed the nature of the charges here. Is there anything about the nature of the charges and your fears about being out at night, anything about that that you think might affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No, no, not really.

THE COURT: This is a point I guess that's good to follow-up with everyone here.

There was a question that asked:

Do you believe that the fact that someone has been arrested means that a person must be guilty?

You said yes, because they have to be punished for what they did to other people, especially kids.

THE PROSPECTIVE JUROR: Yes, I say that.

THE COURT: You do understand that the mere fact that someone has been arrested doesn't necessarily mean that they are guilty because the government has the burden of proving the guilt of anyone who is accused of a crime, whatever the crime is. It doesn't matter what the crime is. The government has the burden of proving the guilt of any defendant charged with a crime beyond a reasonable doubt.

THE PROSPECTIVE JUROR: Right.

THE COURT: Of course, it is up to the trial jury to decide whether the government has sustained its burden after they have heard all of the evidence presented and after they have heard my instructions on the law and after -- three steps have to happen. You hear all the evidence, you hear my instructions on the law, and then the jury gets to discuss all the evidence against the instructions on the law. So that is a lot that happens right after a person has been arrested.

THE PROSPECTIVE JUROR: Yes.

THE COURT: So understanding that, do you still believe that if someone has been arrested, the person must be guilty?

THE PROSPECTIVE JUROR: Depends, you know.

THE COURT: It depends on what?

THE PROSPECTIVE JUROR: What the charge is about, what they done, what they did; depends.

THE COURT: You also mentioned that if you -- it said: Do you believe if a grand jury issues an indictment a defendant must be guilty?

You said, yes. You said, they should go to jail.

Again, this goes back to what I mentioned before. The mere fact that a person has been arrested does not necessarily mean that they are guilty because that's what the trial is for.

THE PROSPECTIVE JUROR: Okay.

THE COURT: The same thing, an indictment, because an indictment is not evidence. An indictment is not evidence. An indictment is a tool. It is a tool that allows the case to be brought to trial. It informs the defendants as to what the charges are that the government has brought. It is sort of what gets the ball rolling so that we could get to this point, to the trial, where the government then has the burden of proving the guilt of the defendants beyond a reasonable doubt.

Then it is going to be up to the jury, the trial jury, to decide whether or not the defendants are guilty. So the indictment is not evidence. The indictment is not proof of anything.

Do you understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you accept that instruction?

THE PROSPECTIVE JUROR: Yes, I can.

THE COURT: Okay. Can you accept my instruction that the mere fact that somebody is arrested doesn't mean that they are guilty?

THE PROSPECTIVE JUROR: Yes, I could.

THE COURT: Thank you.

Is there anybody else who has any problems with that, with following those instructions? This is the time to tell us.

No. Okay.

Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: And, as a matter of fact, I just want to make sure that you understand, that if there is any issue at all, remember that last, last question in the -- what we call if there are any hardships or scheduling issues, that very last question, was there any reason at all why you couldn't serve on the jury.

If there is anything at all, this is the time to tell us. Okay? If there are scheduling issues, problems with the job, whatever. This is the time to tell us because if you get chosen to serve, once we get underway, I am not going to excuse you. Okay? This is the time to bring up anything.

Maybe you don't know if it is important or not. Even if you don't know whether it is important or not, let us decide whether it is important or not. Okay? Just bring it up to us. Okay?

THE PROSPECTIVE JUROR: Okay.

THE COURT: If it is something, like I said, that is sensitive, we talked about a lot of sensitive things already with people. But as we can see, things happen to people. As they say, bad things happen to good people. Things happen in families and the only reason why we are talking about them is to make sure that you would be able to serve as a fair and impartial juror in this case.

Okay? I just wanted to remind you of that.

So now, juror 59, hi.

THE PROSPECTIVE JUROR: Hi.

THE COURT: Hi.

You mentioned that you had a problem with English.

THE PROSPECTIVE JUROR: Yes.

THE COURT: You told us that you are a housewife.

THE PROSPECTIVE JUROR: Yes.

THE COURT: And but you didn't tell us what -- whether you went to school and where you went to school.

Did you go to school.

THE PROSPECTIVE JUROR: I graduate in my country.

THE COURT: In your country?

THE PROSPECTIVE JUROR: Yes, in my country. I did here the cosmetic course but institution.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Then I never go to work because I have a baby-sitter my kids. I take care of my kids. That's it.

THE COURT: Okay. In India, when you went to school, how far did you go to school?

THE PROSPECTIVE JUROR: Very close to my house.

THE COURT: I'm sorry. I asked the same question. That was not asked very well.

The way to ask the question is, what was the highest grade that you completed in school?

THE PROSPECTIVE JUROR: Graduation.

THE COURT: Did you go to --

THE PROSPECTIVE JUROR: College.

THE COURT: You went to college?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you major in anything in college?

THE PROSPECTIVE JUROR: No.

THE COURT: No?

In India, you don't major when you go to college?

THE PROSPECTIVE JUROR: Major like?

THE COURT: Like specialize, like science?

THE PROSPECTIVE JUROR: Special, in the child psychology.

THE COURT: In child psychology?

THE PROSPECTIVE JUROR: Yes.

THE COURT: When you talk with your children, what's the primary language you use to talk with your children?

THE PROSPECTIVE JUROR: In my country, Hindi language.

THE COURT: In the Hindi language?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Have you ever held a job outside of the home?

THE PROSPECTIVE JUROR: No.

THE COURT: What language is the schooling in India?

THE PROSPECTIVE JUROR: Both English and Hindi. But Hindi is more.

THE COURT: Okay. When you get to the college level, what is the language?

THE PROSPECTIVE JUROR: The same thing, two languages.

THE COURT: The same thing?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Two languages.

Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: Juror number 60, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: You were asked the question, everyone was asked the question: At this point in time do you have an opinion about whether any of the defendants are guilty of the crimes charged.

You said, yes, but you also explained that you need to see or hear what evidence they have to prove that they are innocent or guilty.

I wanted to understand what you meant by what evidence they have to prove that they are innocent or guilty.

Who do you think has to present the evidence?

THE PROSPECTIVE JUROR: Well, the witnesses that either one of them has.

MR. HERMAN: I can't hear.

THE COURT: You have to speak a little bit louder. She says, the witnesses that either one of them has.

Okay. So let's back up a little bit.

A little while ago you heard me mention that the government has the burden of proving the guilt of the defendants, both defendants, beyond a reasonable doubt. The defendants have pled not guilty to the charges in the indictment. Right now they are presumed innocent until such time, as all the evidence has been presented, I have given the instructions on the law, and the jurors unanimously decide that the government has sustained its burden of proving the guilt as to any of the charges beyond a reasonable doubt.

Do you understand that so far?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. The defendants do not have any burden of proof. They do not have to present any evidence. In fact, these lawyers don't have to do anything. If they wanted to, they could sit there and do nothing. Because the burden is always on the government to prove a defendant's guilt, as in this case, or any case, beyond a reasonable doubt.

Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you feel that somehow the defendant in some way is obligated to present any evidence?

THE PROSPECTIVE JUROR: I don't think so. If you say that they are, you know, they don't have to or they don't, then I mean --

THE COURT: Let me put it a different way. I don't know if you have -- you are a young lady. I don't know if you have any children or not. But let's say -- we've all had experience with kids, right? And whether they are your own or they are brothers or sisters and somebody else's kids, you have two kinds in a room and you hear a loud noise and you come into the room and the lamp is broken. It is on the floor.

The natural reaction that we have is to find out from each one of the children what happened, what's your side of the story and what's the other child's side of the story. That's the way we deal in the real world.

In a sense the courtroom is not the real world. We have special rules. In this world, in the courtroom world, the government always has the burden of proof. It is going to be up to the government to present the evidence to prove the defendants guilty.

As I said, the lawyers here don't have to present any evidence if they don't want to. But maybe they do decide to present evidence. Maybe they do decide they want to question the government's witnesses. They have a right to do that.

But the fact that they do that does not shift the burden of proof on the defendant. In other words, it doesn't mean that now the defendant has to prove that they are not guilty. That burden is always on the government.

Do you understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can you follow that rule of law?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anyone who has any problem following that rule of law? Please raise your hand.

Okay. No one has raised their hand.

Thank you.

Juror 64, hi. You are pretty fast. I couldn't stop you. You were all the way up there before I could stop you.

You were retired now?

THE PROSPECTIVE JUROR: Yes, Your Honor.

THE COURT: What kind of a job did you do?

THE PROSPECTIVE JUROR: I was a supervisor.

THE COURT: Of what?

THE PROSPECTIVE JUROR: In a motor vehicle company. Volkswagen.

THE COURT: In Volkswagen.

Was that in manufacturing.

THE PROSPECTIVE JUROR: No. This was import-export.

THE COURT: Import-export?

THE PROSPECTIVE JUROR: In car parts.

THE COURT: I see.

Did you just ship the parts or were you making the parts?

THE PROSPECTIVE JUROR: No. We import the parts.

THE COURT: You imported the parts. Okay.

You supervised the workers there?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. How long have you been retired?

THE PROSPECTIVE JUROR: Well, since about '96.

THE COURT: Since '96. Okay.

I see that as part of your activities you like to watch some TV shows.

THE PROSPECTIVE JUROR: Well, mostly court cases, you know, regular -- regular shows, movies.

THE COURT: So you like to watch court cases.

You mentioned Judge Judy and we are all familiar with Judge Judy.

Do you watch any other kind of court shows?

THE PROSPECTIVE JUROR: Yes.

I watch Judge Milian, Judge Joe Brown, Judge Alex.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Judge Mathis. You name it, I could tell you.

THE COURT: You know, I am not going to act like any of those judges.

THE PROSPECTIVE JUROR: Even divorce cases too.

THE COURT: I like to watch those shows too. I watch them too.

But, you understand, of course, that those shows are put together a lot for their dramatic value. So you don't get to see, for example, a jury selection process like this --

THE PROSPECTIVE JUROR: No.

THE COURT: -- on those shows because I have watched those shows, the ones that you are talking about, when I get a chance to watch TV.

There are a lot of shortcuts because they have to make room for the commercial breaks and the cases are relatively simple cases. So you don't see lawyers there. It is just -- it is a people's court. Just the people get up there and they present their case to whoever the judge is, right?

So you can understand that those shows are going to be very different from what you might see here in this courtroom.

Do you understand that? Do you understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

THE PROSPECTIVE JUROR: But some of the shows sometimes, the plaintiffs have -- does have an attorney.

THE COURT: Okay.

THE PROSPECTIVE JUROR: In some of the shows.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Not all.

THE COURT: Okay. Most of those are civil cases, right?

THE PROSPECTIVE JUROR: Right.

THE COURT: In other words, they are talking about money damages, property that got damaged?

THE PROSPECTIVE JUROR: Yes, Your Honor.

THE COURT: And so on. So, again, those shows are dealing with another area of the law that has different rules.

Can you follow the rules of law as I give them here?

THE PROSPECTIVE JUROR: I understand, Your Honor.

THE COURT: Do you know what, I am not going to act like Judge Judy. I don't get her kind of money to act like that.

Okay. Thank you very much.

THE PROSPECTIVE JUROR: Thank you, Your Honor.

THE COURT: Juror 66, hello. How are you?

You wanted to mention something earlier?

THE PROSPECTIVE JUROR: Yes. I have a letter from my company.

THE COURT: From your company?

THE PROSPECTIVE JUROR: Yes. This is a letter.

THE COURT: Okay. Why don't I see counsel at the side, please, and you can bring your letter.

I need the reporter.

(Side bar.)

(Juror present.)

THE COURT: This is raising a financial hardship issue. The juror is the only person who works in your household?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. It doesn't say here, though, how much your employer pays for jury duty. You mentioned that they only pay one day. Correct?

THE PROSPECTIVE JUROR: No. After first day I come to my company and ask how much going to be and they said just only first day and after that two days. No more. Just --

THE COURT: For a total of three days?

THE PROSPECTIVE JUROR: Total of three days.

THE COURT: That's all they pay you?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I see.

I could docket this under seal but this identifies the juror by name and also the company.

In addition, it says, that there is a burden on the employer because they recently lost a couple of members of their finance staff.

THE PROSPECTIVE JUROR: Yes.

THE COURT: And the juror is the only one with the skill and knowledge to process vendor payments and maintain the accounting system --

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- at the employer.

So they are asking for a postponement of her jury duty.

The other thing I wanted to ask you about is, you mentioned some difficulty with English. You didn't tell us what your level of education is.

THE PROSPECTIVE JUROR: I graduate two years college in this country. But I am in the -- for my opinion, my English is enough just only to do my job and just to talk. But any specific words or situation or medical, for example, this is -- I am not sure that I will understand.

THE COURT: We don't have any medical terms that I am aware of here.

THE PROSPECTIVE JUROR: But I -- if it is some specific words? I am not sure.

THE COURT: Were you able to understand the instructions that I gave a little while ago?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You were able to follow that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You were able to understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have some very accomplished children, I see. Congratulations.

In what language do you talk to your children?

THE PROSPECTIVE JUROR: Russian.

THE COURT: Russian?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you have any questions for the juror?

MR. RINALDO: No.

MR. AMATRUDA: No questions.

Thank you, Judge.

THE COURT: Okay. You know, can I give the letter back to the juror?

MR. RINALDO: Yes.

MR. AMATRUDA: Yes, Your Honor.

THE COURT: I am going to give that back to you. You can have a seat.

THE PROSPECTIVE JUROR: Thank you.

(In open court.)

THE COURT: Juror 68, I believe you mentioned that you were a law secretary in a law firm?

THE PROSPECTIVE JUROR: Right.

THE COURT: Without telling us the name of the firm that you are with, what kind of law do they practice?

Is it civil or criminal?

THE PROSPECTIVE JUROR: I think we do -- a lot of different practices.

THE COURT: You are going to have to speak a little bit louder.

She said she engages in a lot of different kind of practice.

So you do a little bit of civil and criminal and commercial?

THE PROSPECTIVE JUROR: The area I'm in corporate.

THE COURT: Corporate?

THE PROSPECTIVE JUROR: Corporate.

THE COURT: You have been doing that for how long?

THE PROSPECTIVE JUROR: For this company, ten years.

THE COURT: Were you with another company before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What kind of law did they do?

THE PROSPECTIVE JUROR: Mostly real estate.

THE COURT: Real estate?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How long were you with them?

THE PROSPECTIVE JUROR: Ten years.

THE COURT: You mentioned that your grandfather and a brother were held up I think at knife point, was it?

THE PROSPECTIVE JUROR: That's correct.

THE COURT: Your dad also was beaten and robbed in the street?

THE PROSPECTIVE JUROR: Right.

THE COURT: Were those reported to the police?

THE PROSPECTIVE JUROR: I don't know for sure. I don't believe so.

THE COURT: Okay. Did you talk to them at all about the incident, what happened?

THE PROSPECTIVE JUROR: Not in detail. I wasn't around.

THE COURT: You mentioned that -- there was a follow-up question to that about how you felt about the way that law enforcement personnel responded. You felt that they didn't respond appropriately. Then you said, unsure, as you were not there at the time.

I just wanted to understand what you meant by that.

THE PROSPECTIVE JUROR: I guess from what you said repeatedly in court, I think I understand now how I was feeling.

THE COURT: Okay. So how were you feeling? I don't understand.

THE PROSPECTIVE JUROR: I think I was like the other juror, I wasn't sure if I wanted to judge.

MR. HERMAN: We still can't hear her.

THE COURT: She is very soft spoken. Can you just -- I know it is difficult. Can you try to speak a little bit louder?

THE PROSPECTIVE JUROR: Sure.

THE COURT: Okay. I am not sure what it is that you are saying.

Did you feel that law enforcement personnel responded appropriately?

THE PROSPECTIVE JUROR: Well, there was no law enforcement.

THE COURT: There was no response?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. Then I guess the other question, and maybe this is what you are getting at, is, whether there is anything about what happened to your family members that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. You indicated in one of the questions, there was a question about whether the nature of the charges that we have here, as I explained before, there are allegations about drug distribution and murder, murder for hire, whether there is anything about the nature of the charges that might affect your ability to be fair and impartial. You had answered that you were unsure.

For the lawyers, that's question 40.

Is there anything about that that you think would affect your ability to be fair here?

THE PROSPECTIVE JUROR: No, I don't think so.

THE COURT: For the lawyers, it is question 51.

Question 51 relates to something that I have mentioned a little bit throughout today. It says the jurors are the sole judges of the facts. That's the role of the jury. The jury is going to listen to the witnesses and decide what the facts are in the case.

Then, I, the judge, instruct the jury about the principles of law that apply. Then you apply them to the facts as you find them, and the jury may not just follow some rules of law and not follow the others. The juror has to accept the law as I give it to the jury. Even if you don't like the law, even if you don't understand why the law is the way it is, you have to follow the law as I give it.

The question was, do you have any personal beliefs that would make it difficult to follow the Court's legal instructions, whatever they may be?

You answered, yes, and you said I am afraid I may not understand fully which may distort my judgment.

I didn't understand what you meant by that. If you could explain that?

THE PROSPECTIVE JUROR: I think I understand now.

(Continued on next page.)

THE COURT: Well, can you follow that principle of law, that you have to accept the law as I give it, but the jury makes a decision as to what the facts are and what the facts are not. That's the jury's role. Do you understand that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you can follow that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And perhaps I explained it already earlier in connection with one of the other juror's questions. You had said that you didn't understand the question. The question was, Do you believe that if a grand jury issues an indictment, the defendant must be guilty? Do you understand that now, that the indictment is not evidence?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you can follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

THE PROSPECTIVE JUROR: Your Honor. I don't think I put it on the questionnaire, but I might have a conflict.

THE COURT: In terms of? What kind of a conflict?

THE PROSPECTIVE JUROR: I have classes.

THE COURT: You have what?

THE PROSPECTIVE JUROR: Classes.

THE COURT: What kind of classes?

THE PROSPECTIVE JUROR: College classes.

THE COURT: Well, when do they start?

THE PROSPECTIVE JUROR: They don't start until August 28.

THE COURT: August when?

THE PROSPECTIVE JUROR: 28.

THE COURT: That's not going to be a conflict.

THE PROSPECTIVE JUROR: I also have vacation plans in July.

THE COURT: Well, you didn't put anything about having vacation plans in July.

THE PROSPECTIVE JUROR: I'm sorry. I didn't put it down, because they were not confirmed yet.

THE COURT: They were not confirmed yet. So, you confirmed them after you found out that you were going to be called for jury service?

THE PROSPECTIVE JUROR: No, because I was on a wait list.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: I was on a wait list for a time share.

THE COURT: When is the vacation?

THE PROSPECTIVE JUROR: The week of July 19.

THE COURT: The week of July 19?

THE PROSPECTIVE JUROR: Yes.

THE COURT: It's a time share.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Thank you.

Juror No. 70. My questions relate to two questions that are sort of interrelated on the questionnaire. For the lawyers, it is 25 and 27. You mentioned that you had a dad and an uncle who were charged with narcotics possession. Are they still in jail?

THE PROSPECTIVE JUROR: No.

THE COURT: No. They are not.

Do you know whether they went to trial?

THE PROSPECTIVE JUROR: No, I don't know. I don't know the specifics of either one.

THE COURT: You don't know the specifics of either one?

THE PROSPECTIVE JUROR: No.

THE COURT: Have you ever talked to them at all about what happened to them?

THE PROSPECTIVE JUROR: No.

THE COURT: Is there anything about their situation that you feel might affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: There was a question number 4, for the lawyers. I just wanted to make sure. You mentioned that a family member was a defendant. Were you referring to your dad and your uncle?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I just wanted to be clear about that.

And then you mentioned -- question 3 for the lawyers -- that drugs and alcohol abuse, there was some drugs and alcohol abuse within the family. You've heard me talk to some of the other jurors today about that, and as you can see, it happens to all people. Is there anything about the fact that your family has had a struggle with that and the charges here that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you.

Juror No. 84. Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: So, you had a nephew who was murdered in an altercation --

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- about a girlfriend.

Is this the same person who you mentioned -- for the lawyers, in question 36 -- that someone was killed and there were no details?

THE PROSPECTIVE JUROR: Yes, that's the same person.

THE COURT: Was anyone ever arrested in connection with that?

THE PROSPECTIVE JUROR: Yes. I think he's still incarcerated.

THE COURT: Did that happen here in the United States?

THE PROSPECTIVE JUROR: Yes, that happened in Baltimore.

THE COURT: Did that person go to trial?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you attend the trial?

THE PROSPECTIVE JUROR: No. My sister did.

THE COURT: Okay. How do you feel about the way that law enforcement responded to that situation?

THE PROSPECTIVE JUROR: Oh, they were pretty good with her. The two officers came to the funeral services. It was such a hideous crime.

THE COURT: You heard me mention this morning there are likely to be police officers, and, I don't know, maybe other law enforcement agency people who might testify here. In your case, you feel you had a favorable experience with law enforcement officers. Would you be able to assess their testimony the same as if they were doing anything else, they were painting a house or schoolteachers or delivering the mail?

THE PROSPECTIVE JUROR: Sure, because I believe in the habeas corpus law. A person is innocent until proven guilty.

THE COURT: And you had an issue with an altercation where you were accused of a robbery and you got arrested?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you feel about the -- first of all, the outcome was that it was dismissed, that you said?

THE PROSPECTIVE JUROR: That was a matter that I got involved with my sister, defending my sister on a company van, and the gentleman -- I interceded, and he went and said I tried to rob him, which was totally false. So, when everything came out in the clear, there was no robbery I went to protect my sister.

THE COURT: So, how do you feel about the way your case was handled?

THE PROSPECTIVE JUROR: It was handled properly. That's why they ended up dismissing. After all the facts came out, they realized he was just trying to get back to me to lose my job, which I did lose my job.

THE COURT: Just to follow up, there was that last question that asked whether there's any reason why a juror can't serve on the jury. Is there any reason why you think you can't serve on the jury?

THE PROSPECTIVE JUROR: No, your Honor.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: Juror No. 86. Good afternoon. And you mentioned that you may have a vacation scheduled?

THE PROSPECTIVE JUROR: I do have, July 21.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: July 21.

THE COURT: How long are you going to be gone?

THE PROSPECTIVE JUROR: A week.

THE COURT: A week?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is that already set?

THE PROSPECTIVE JUROR: Yes, because my wife and I, you know, her job and my job, we took it at the same time.

THE COURT: I see. Traveling anywhere interesting?

THE PROSPECTIVE JUROR: Maybe Niagara Falls or Canada.

THE COURT: You have not decided about going away anywhere?

THE PROSPECTIVE JUROR: Not definite.

THE COURT: So, you could spend your vacation here. Your wife can come and watch. She can get a course in civics.

THE PROSPECTIVE JUROR: Get my wife to sit on the jury, too.

THE COURT: Thank you.

Juror No. 90. You had an uncle who was in prison, yes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know anything about the case --

THE PROSPECTIVE JUROR: No.

THE COURT: -- the uncle's case?

THE PROSPECTIVE JUROR: No.

THE COURT: How long ago was that? Do you know anything?

THE PROSPECTIVE JUROR: I just know he was in prison.

THE COURT: Anything about that that you think would affect your ability to be fair in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned, as well, that you had some experiences, as well. You're recovering also from alcohol? Yes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Seven years in recovery?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Congratulations.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Is there anything about the experiences that you have had and the charges here that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: And you mentioned that you felt that the defendants have the burden of proof?

THE PROSPECTIVE JUROR: Yes. That was a mistake.

THE COURT: It's a mistake?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You heard my explanation --

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- earlier. And you can follow that instruction that the burden of proof is always on the government?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: And Juror No. 93. Hello.

THE PROSPECTIVE JUROR: Hello.

THE COURT: You said that you weren't sure about the fact that since the defendants are charged with distributing illegal drugs, you weren't sure how that might affect you. So, you've been sitting here for a while. Have you given it any thought as to whether or not it would?

THE PROSPECTIVE JUROR: Yes, because I have a family member who was abusing drugs, and I kind of have mixed feelings about being underneath that scrutiny, about having that judgment to judge somebody. So, I'm not sure if I could be able to give a good judgment or be fair.

THE COURT: Are you telling me that you have concerns about the ability to sit in judgment of other people?

THE PROSPECTIVE JUROR: I'm sorry.

THE COURT: I'm trying to understand your statement.

THE PROSPECTIVE JUROR: I'm just saying that I have known somebody who did abuse drugs, and I find that somebody who distributes drugs, I don't know if I could make the right judgment to say if they are innocent. So, I wasn't sure if I can actually be fair. I have a lot of mixed feelings towards somebody who would distribute drugs, because I went through a lot with that person who I know, who actually abused drugs. So, I'm not sure if I could make a fair judgment.

THE COURT: I see.

THE PROSPECTIVE JUROR: I have a lot of animosity.

THE COURT: Okay. Thank you.

THE PROSPECTIVE JUROR: And one other thing I just wanted to tell you. You said to mention about hardship. I also have a financial hardship to actually serve as a juror.

THE COURT: Okay. Are you working now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And do you get paid?

THE PROSPECTIVE JUROR: Not for jury duty, no.

THE COURT: Are you the only one working in your home?

THE PROSPECTIVE JUROR: No.

THE COURT: Your husband is working?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, why would this be a financial hardship?

THE PROSPECTIVE JUROR: Because whatever the court provides is not as much as I need, as my salary can provide for me.

THE COURT: What do you do?

THE PROSPECTIVE JUROR: I'm a provider in a day care.

THE COURT: In day care?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is it a private day care?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you take care of children in your home?

THE PROSPECTIVE JUROR: Yes. Not in my home, but yes.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: Juror No. 95. You wanted to mention something earlier?

THE PROSPECTIVE JUROR: Actually, two things. First, when I wrote the papers, I didn't have eyeglasses. I think I did some mistakes, because I have to put the paper far from my eyes.

MR. HERMAN: We can't hear him.

THE COURT: He thinks he might have made some mistakes, because he didn't have his glasses with him and he needs his glasses.

And you also indicated that you have difficulty reading or understanding English?

THE PROSPECTIVE JUROR: I'm actually a medical doctor in my country. I came here, but the problem is with English. It takes time for me to pass the medical exam, and I am waiting to study the boards, and the problem is reading quickly and listening. I'm just confused.

THE COURT: You're a physician's assistant?

THE PROSPECTIVE JUROR: No. I am a physician in my country. But assist -- not assistant, assisting other physicians in medical records. Not medical assistant. In the medical records, in paperwork.

THE COURT: So, you are doing paperwork?

THE PROSPECTIVE JUROR: Now, I am taking care of two old ladies and two children, taking care of them. But I am a doctor.

THE COURT: Whose children are you taking care of?

THE PROSPECTIVE JUROR: My sister's.

THE COURT: You didn't put that down on the questionnaire. How old are the children?

THE PROSPECTIVE JUROR: Six and seven.

THE COURT: Since when have you been taking care of them?

THE PROSPECTIVE JUROR: About seven years. Seven years.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: Seven years. I'm taking care of them for seven years.

THE COURT: For seven years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You didn't write that down over here. Thank you.

THE PROSPECTIVE JUROR: I want to add something.

THE COURT: Yes.

THE PROSPECTIVE JUROR: I am fasting now for Ramadan. I am fasting Ramadan. So, I think I'm hypoglycemic. I cannot stay to five and eight hours without drinking.

THE COURT: When is the feast for Ramadan over?

THE PROSPECTIVE JUROR: It just started yesterday.

THE COURT: It just started yesterday?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What do you do during the feast -- during the fast?

THE PROSPECTIVE JUROR: We stop drinking and eating.

THE COURT: Okay. Is there any -- I know for the

Jews, for Yom Kippur, when they fast for that one day, there are exceptions for people who have medical conditions and for pregnant ladies and young children and the very elderly, people who have any kind of medical issues. There's no such exception in Ramadan?

THE PROSPECTIVE JUROR: There's an exception, yes.

THE COURT: If you feel like you need to eat, is that the problem?

THE PROSPECTIVE JUROR: And drinking. And drinking.

THE COURT: So, you need to drink water?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

THE PROSPECTIVE JUROR: But I cannot drink water.

THE COURT: You just told me that there is an exception in Ramadan for people who have a medical condition.

THE PROSPECTIVE JUROR: Not everybody. Not everybody.

THE COURT: But you're just telling me that you have a fear that you are hypoglycemic, and you need to drink and eat.

THE PROSPECTIVE JUROR: Everybody would be hypoglycemic.

THE COURT: This would happen to you whether you are at home or here; right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, what would you do at home?

THE PROSPECTIVE JUROR: Still, I stay fasting.

THE COURT: How does that affect you sitting here, because you would just be sitting here?

THE PROSPECTIVE JUROR: Just the concentration. You have headaches and you cannot concentrate.

THE COURT: Okay. Thank you.

Juror No. 96. Hi.

THE PROSPECTIVE JUROR: Hello.

THE COURT: I have a few questions for follow-up with you. Like some of your fellow jurors, you have people in your family who also suffered from drug abuse, as well. How do you think that might affect your ability to sit in this particular case? You mentioned a cousin who is in jail because of drug use, as well.

THE PROSPECTIVE JUROR: I don't think it will impact my understanding of the case.

THE COURT: I guess the question is whether -- it's impossible for us to tell you, Don't ever think about that or don't remember that. The question is, whether you can somehow push that off to the side and decide this case just on the facts that are received here in the courtroom, and not let those feelings kind of inject themselves into whatever decision you might make as a juror in this case. Would you be able to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You also mentioned that we need to have tougher gun laws and eliminate them from the streets, and you have some strong feelings about drugs and guns. And, again, there may be some testimony about guns being used during the course of this case to kill at least a couple of individuals, and that it was in connection with a narcotics conspiracy. You got the drugs and guns together. Are your feelings that strong that you feel you couldn't set them aside and decide this case on the facts and the law?

THE PROSPECTIVE JUROR: My feelings are pretty strong against that type. You know, again, I can understand facts and be able to make a decision on those facts.

THE COURT: To put it a different way: We understand that people come here with strong feelings about things, and it's taken however many years on this earth to be who you are. The purpose of the jury is to decide whether or not the government has sufficient proof to prove the charges against the defendant beyond a reasonable doubt. It's not the time to make a statement about the drug laws or the gun laws or to seek retribution for whatever may have happened to loved ones. You can understand that difference, of jury duty from the other avenues we have available to do that. The voting booth. We can vote. We can demonstrate. We can do all kinds of other things. You understand that?

THE PROSPECTIVE JUROR: I understand.

THE COURT: You mentioned that you have a demanding work schedule and you had vacations planned already with the family, as well as work travel for business trips. But you didn't tell us what the time frames were.

THE PROSPECTIVE JUROR: I'm on a team of thirty-five people in the banking industry. So, I will have a lot of vacation coverage for my team over the next couple of months. That's just how we operate.

THE COURT: So, I'm trying to understand. What do you mean by that?

THE PROSPECTIVE JUROR: When someone else is out on their vacation for the summer, then I have to fill in for them. Someone else would be out, and we all fill in for each other for vacation, summer vacations.

THE COURT: I see. Well, if you were out here, would somebody be able to cover for you?

THE PROSPECTIVE JUROR: For a day here and a day there, yes. It gets harder when it's for an extended period of time. Like we schedule our vacations, so we don't overlap, my manager and my direct reports. My vacation is scheduled for the last two weeks in August, and then my boss is the two weeks prior to that, and my other guys are now. It's kind of all scheduled and predetermined.

THE COURT: Your vacation with your family is the last two weeks of August?

THE PROSPECTIVE JUROR: Yes.

THE COURT: That should not interfere, your family vacation should not interfere. You mentioned you have work travel for business, as well. When is that? Do you have that scheduled already?

THE PROSPECTIVE JUROR: In September.

THE COURT: That should not be a problem.

So, the question is the coverage for work, but it sounds like you have a lot of people in your department?

THE PROSPECTIVE JUROR: I do. Not everybody can cover what I can cover.

THE COURT: Whether do you do exactly?

THE PROSPECTIVE JUROR: I manage the team, and it's a banking operation.

THE COURT: What do you mean by "banking operation"?

THE PROSPECTIVE JUROR: Confirming trades, effect trades, my market trades, confirming trades, making payments, doing wire transfers.

THE COURT: Thank you.

MR. HERMAN: Could your Honor follow up on questions 42 and 43, please?

MR. RINALDO: 46, as well, your Honor.

THE COURT: Sure.

So, you've heard me talk about the presumption of innocence; right, that the defendants are presumed innocent, and that they cannot be convicted unless the jury unanimously, and based solely on the evidence in this case and the law as I give it, the jury decides that the government has proven their guilt beyond a reasonable doubt. And the defendants have no burden of proof at all. You indicated that you could accept the rule of law, but then you said you think so.

Can you elaborate on that? Can you follow that rule of law?

THE PROSPECTIVE JUROR: Yes. I understand the law and how it needs to be proven. But obviously, yeah, I think so, was more about everyone has a presumption, the mind wandered to whether someone -- those questions kind of talk about are they guilty or did they do it, and that's why the charge is against them. You don't know until you hear all the evidence.

THE COURT: Right. Exactly right.

THE PROSPECTIVE JUROR: Yes.

THE COURT: The defendants are presumed innocent. Right now, they are presumed innocent, and we have not heard any evidence, and so that's really where the jury should be at this point. The jury should not be speculating that just because there was an indictment or anything of the sort or the fact that we are here right now to determine whether or not they are guilty, because there's been no presentation of evidence, you have not heard my instructions on the law, and importantly, the jury hasn't gotten together and started to deliberate on the facts and on the evidence presented and on the law and applying those facts to the law as I give it. That's the key.

So, would you be able to follow that instruction and give these defendants the presumption of innocence?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Again, the same thing with the indictment. The fact that the indictment exists is not proof of anything. Would you be able to accept that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: At the time that you filled out the questionnaire, you indicated that you had an opinion that the defendants were guilty of the crimes charged. You indicated that there was probably strong evidence against them. Understanding my explanation on the law, do you still hold to that answer?

THE PROSPECTIVE JUROR: No.

THE COURT: So, you understand, again, that they are presumed innocent at this point in time?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Also, you said that you didn't think that you could follow the Court's instructions. For the lawyers, question 51. Do you still feel that way at this point?

THE PROSPECTIVE JUROR: If I could follow the Court's instructions?

THE COURT: Yes.

THE PROSPECTIVE JUROR: No. I feel I can.

THE COURT: You can?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And there was a question -- you heard me talk to some of the other jurors earlier today -- about people who may be testifying here with a cooperation agreement, who maybe have been accomplices during the course of the crimes charged in the indictment. And you indicated that you had a belief or opinion that might affect your ability to evaluate testimony from such witnesses. You said that people lie. I suppose that's true about everybody, not just people who may have actually been part of the crime.

But perhaps you can elaborate on your answer?

THE PROSPECTIVE JUROR: I'm sorry. What was the question, again?

THE COURT: The question was about evidence in this case that might include information provided or obtained from individuals who participated in some of the crimes charged in the indictment. So, sometimes they are called cooperators or accomplice witnesses, and they have pled guilty and are testifying pursuant to cooperation agreements with the government in the hope that their own sentences might be reduced. And it is permissible for the government to present such witnesses and for a jury to rely on their testimony in reaching a verdict, obviously depending on whether the jury believes the witness or not.

So, the question is whether you have any beliefs or opinions that would affect your ability to evaluate the testimony of those witnesses fairly and impartially? You indicated, yes, and then you said, People lie. So, I would like to hear from you what you mean by that.

THE PROSPECTIVE JUROR: I guess that's based off of the evidence; right? So, the evidence or the testimony would make me decide which way I felt it was going as to whether I believed it or not, was based off the evidence.

THE COURT: Let me put it this way: You are in banking and you do a lot of transactions and you have to rely on information that you get from your co-workers and from other sources; right?

THE PROSPECTIVE JUROR: Correct.

THE COURT: When you talk to these people, you have to make a decision every time you talk to them or even in other areas of your personal life about whether they are lying to you or not -- right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- in order to make important decisions;

right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, this is no different. The jury will be looking at the witnesses and listening to them and making a determination based on everything that you hear as to whether or not you're going to believe that witness either completely or in part. Would you be able to do that fairly and impartially?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You mentioned that you thought it would be difficult to avoid the news media. You heard me talk about that earlier. If you happen to hear anything about this case, would you be able to turn it off, turn the page, not look at it and ignore it?

THE PROSPECTIVE JUROR: Yes, as long as it's just about this case.

THE COURT: We're not telling you to close off from the rest of the world, but we are also asking you not to do any kind of research about anything connected with this case or any of the people connected with this case. That even includes things like just sort of generally what are trials about or principles of law and things of that nature, because that's going to come from me. That information is going to come from me, and you have to follow the law as I give it and whatever explanations I give. And I will give the jury some explanation about trial procedures to help you follow along. Right? Right now, I have not seen anyone here who is a lawyer. We have a legal secretary. Maybe she has some idea of what the process is. I will be giving instructions about that. So, would you be able to refrain from doing any kind of research or any investigation?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You also mentioned that you would have a hard time not to sympathize and you tend to be emotionally engaged. I kind of wanted to hear from you what you mean by that.

THE PROSPECTIVE JUROR: Well, it's a different mindset, sitting on a jury. When you're reading the newspaper at home, you can make your judgments based off of what you are reading or listening to the TV. It's a different mindset. In other words, you don't have -- you're not right or wrong, because it's usually something that you can't impact. So, to me, it's a different mindset, to sit on a jury and now to be completely impartial and hold your judgment and wait for it. It's not something that I have sat on a jury before, so it doesn't come naturally.

THE COURT: You never sat on a jury before?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. In a way, you are right. It is not natural. Like I said before, we have different rules for the courtroom than what you have out in the real world, so to speak. My example about the two kids and the lamp; right? The bottom line is, will you be able to reach whatever decision you reach without letting any kind of bias or prejudices or emotions or sympathies play a role in that decision?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Juror No. 99. You have a job that's pending towards the end of July; correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Are you the only person that's working in your home?

THE PROSPECTIVE JUROR: No. My wife works.

THE COURT: Your wife works?

And how hard would the hardship be for you?

THE PROSPECTIVE JUROR: My wife was out of work for four years. She just started working. So, I'm fifty-nine now. All right. It's not going to be easy to find a job. So, I have to start looking. I already tried for something in-house. I went for an interview. There's seven other people going for it. I have a friend from California called up, he has a niece that might have a lead on something out -- another position I'm going to check out. Right now, as of July 25, I'm out, no job.

THE COURT: Does the job that you are at, do they pay you for jury duty?

THE PROSPECTIVE JUROR: Yes.

THE COURT: They do?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You also had some cousins who had issues with drugs?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Anything about that that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned that you would feel a need to hear from the defendants, that you would be inclined to think that they were guilty if they didn't speak for themselves. You heard me have discussions now about what the law is. Do you still feel that way?

THE PROSPECTIVE JUROR: I have to hear the whole case. If the whole case went along and it seemed like the defendant could get up and it would appear that they would need to get up and defend themselves and they were not going up on the stand, I have a hard time finding them innocent, okay. That's just me. That's the way I really feel. I mean, there are probably instances where they don't need to go up there, and there are instances when they should be up there. I guess that's just my feelings.

THE COURT: You heard me mention that they don't have any burden of proof. The burden of proof rests entirely on the government.

THE PROSPECTIVE JUROR: I agree. I hear that. I understand that. But if the government brings a strong case to the point where I think someone should be coming up and defending themselves, at least I would, it doesn't look good for the defense, but the government would have to bring a strong case.

(Continued on next page.)

THE COURT: Thank you.

Juror 100, good afternoon.

THE PROSPECTIVE JUROR: Afternoon.

THE COURT: You have a son-in-law who is NYPD?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Still working?

THE PROSPECTIVE JUROR: Yes, six years on the force.

THE COURT: Do you get to talk to your son-in-law about the job he does?

THE PROSPECTIVE JUROR: I will ask him how it is going and things of that nature.

THE COURT: But not in any real detail?

THE PROSPECTIVE JUROR: No.

THE COURT: About like what he actually does out in the street or whatever?

THE PROSPECTIVE JUROR: He was just recently reassigned to another position. So, in that case, you know, he told me.

THE COURT: Is there anything about the fact that your son-in-law is a police officer that would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Will you be able to follow the instructions I give about not giving an officer more weight or less weight just because they are police officers?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And, do you have an uncle who is a lawyer? Did that uncle ever work in criminal law?

THE PROSPECTIVE JUROR: No.

THE COURT: And, you had your mom, was in a pretty nasty purse snatch. Did they ever arrest the person?

THE PROSPECTIVE JUROR: No.

THE COURT: How do you feel about the way -- you were pretty young then?

THE PROSPECTIVE JUROR: I was young, I witnessed the whole thing.

THE COURT: You witnessed the whole thing.

How do you feel about the way the police handled it?

THE PROSPECTIVE JUROR: Well, it happened in the street, so someone in the house called the police. They came. They took a statement. We rode around in the general area. The purse was found a couple of miles away and nothing really was ever solved.

THE COURT: So nobody was ever arrested for it or prosecuted for it?

THE PROSPECTIVE JUROR: No.

THE COURT: Is there anything about that experience that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: And, you also mentioned you have strong beliefs about gun control. Would you be able to follow my instructions on the law?

THE PROSPECTIVE JUROR: Right. On the law, sure.

THE COURT: And, as I said before, there maybe testimony about use of guns in this case. Would your views in any way affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: And, you mentioned in the questionnaire that you felt that because of the defendants were arrested, they must be guilty, that there must have been a reason for the arrest.

Now, you have heard my explanation and a little bit more detail than what you could get in the questionnaires.

THE PROSPECTIVE JUROR: When I was answering the questionnaire, all I was thinking was, the fact that there was an arrest. There had to be a reason. I understand, the prosecutors would have to --

THE COURT: Prove the case.

THE PROSPECTIVE JUROR: Substantiate it. Prove it.

THE COURT: That is a much higher standard, right. So the government is going to have to prove the case beyond a reasonable doubt which is a high standard.

And of course, the jury would have to make sure that they presented all the proof and then apply it to the law as I give it. You may find that maybe the government did not meet its burden. In which case, the jury would have to find the defendants not guilty if that were the case.

Would you be able to follow those rules of law?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Juror 102.

THE PROSPECTIVE JUROR: Hello.

THE COURT: And you just started a new job.

THE PROSPECTIVE JUROR: Yes. I just graduated for my master's in social work at the end of May. So right now, I'm just working at a social service agency and I'm covering for a social worker out on maternity leave until the end of August.

THE COURT: So, how did you manage to be able to have vacation the first week of August?

THE PROSPECTIVE JUROR: Because it was an agreement I worked out with-- it was the agency I am at is where I was interning. So I knew someone and told her that before I got the position. She was going to be my supervisor.

THE COURT: Thank you.

Juror 105. Good afternoon.

THE PROSPECTIVE JUROR: Afternoon.

THE COURT: You just started a job in communications, right, for a non profit?

THE PROSPECTIVE JUROR: Yeah, it was about I guess coming up, it will be two years in September.

THE COURT: Were you working before that or were you studying before that?

THE PROSPECTIVE JUROR: I was working before that.

THE COURT: What did you do before that?

THE PROSPECTIVE JUROR: Before that I had-- I was living in Mexico for a brief time. I had founded a non profit there and that was for, I guess about between a year and a half and two years. Before that I was working on a political issue campaign, mostly related to the environment.

THE COURT: Related to?

THE PROSPECTIVE JUROR: The environment.

THE COURT: To the environment.

You did live in Bushwick at some point in time of your life, is that recent?

THE PROSPECTIVE JUROR: Yes. I lived there for two years from February of 2012 to March of this year.

THE COURT: Did any of the locations that were listed in the schedule sound familiar to you?

THE PROSPECTIVE JUROR: Besides just general recognition of the street names?

THE COURT: Yes.

THE PROSPECTIVE JUROR: Nothing other than they are in the neighborhood, no.

THE COURT: You have a girlfriend's mother who worked for sometime in the legal field in what capacity, do you know?

THE PROSPECTIVE JUROR: I'm not really sure. She has since retired.

THE COURT: Okay.

You had an uncle who was a victim of a robbery, do you know any details about what happened?

THE PROSPECTIVE JUROR: I know he was on the subway on the way to the airport and the doors had opened and someone had snatched his bag. I know that he reported it to the police and that is the extent of what I know about it.

THE COURT: How do you feel about the response of the police?

THE PROSPECTIVE JUROR: I guess I don't know enough about what they did to respond to comment on it. But, I did not hear anything further from my uncle about it.

THE COURT: Thank you.

Juror 106. Good afternoon.

THE PROSPECTIVE JUROR: Afternoon.

THE COURT: What is the highest grade that you completed in school? You didn't answer that question. The highest grade that you completed in school?

THE PROSPECTIVE JUROR: My school?

THE COURT: You went to school in your country in

Haiti?

THE PROSPECTIVE JUROR: Yeah.

THE COURT: What is the highest grade that you completed in Haiti?

THE PROSPECTIVE JUROR: I finished, the last one.

THE COURT: So, that would-- would it be like high school here in the United States?

THE PROSPECTIVE JUROR: No.

THE COURT: What would it be like, college?

THE PROSPECTIVE JUROR: No.

THE COURT: How many years altogether?

THE PROSPECTIVE JUROR: What?

THE COURT: How many years altogether did you go to school?

THE PROSPECTIVE JUROR: In my country?

THE COURT: In your country.

THE PROSPECTIVE JUROR: Like 16 years.

THE COURT: You went to school for 16 years?

THE PROSPECTIVE JUROR: For 16 years.

THE COURT: And how long have you been in the United States?

THE PROSPECTIVE JUROR: Nine years.

THE COURT: And you mentioned that you have some difficulty with English, yeah?

THE PROSPECTIVE JUROR: Yeah, because I never go to school.

THE COURT: You mean in the United States.

THE PROSPECTIVE JUROR: I go to school-- but if you plus almost every Saturday, three weeks like that. For-- every Saturday during four months. If you plus every Saturday, one Saturday, one Saturday, it will be two, three weeks like that maybe.

THE COURT: So you only went to school, certain days of the week?

THE PROSPECTIVE JUROR: No, only Saturday.

THE COURT: Only Saturday you went to school.

THE PROSPECTIVE JUROR: Because I work five days.

THE COURT: You were working and then going to school at the same time?

THE PROSPECTIVE JUROR: Go to school, yeah.

THE COURT: I see.

Are you married?

THE PROSPECTIVE JUROR: Yeah.

THE COURT: Does your wife work?

THE PROSPECTIVE JUROR: Yeah.

THE COURT: Do you know what she does?

THE PROSPECTIVE JUROR: Mental work-- mental worker-- I don't exactly know. But I know she learn mental health-- because before me, I was in Haiti when she -- when she learned.

THE COURT: She went to school here?

THE PROSPECTIVE JUROR: Yeah, like that.

THE COURT: And, she works in the mental health field?

THE PROSPECTIVE JUROR: Not really, no, because now she got another job, but I don't know exactly what-- I know she work with the-- somebody when you confused like that. But I don't know exactly.

THE COURT: And when you talk to your wife, what language do you speak with your wife?

THE PROSPECTIVE JUROR: My wife speak with me both-- this is my mistake, too much thinking in my country about, news, about admission like about football, soccer. But this is my mistake. My wife always complain about that. And I'm supposed to watch more T.V. than go to the computer and studying something and about Haiti. Because this is my mistake.

THE COURT: Does she speak to you in French or in --

THE PROSPECTIVE JUROR: English, French, French when you go to school and Creole in the room. When you in the room, I speak Creole. But all my 16 years, at school, only French.

THE COURT: Okay.

THE PROSPECTIVE JUROR: But she used to speak English every time with me.

THE COURT: I see. Thank you.

Number 117. Good afternoon.

THE PROSPECTIVE JUROR: Afternoon.

THE COURT: You and some of your friends were victims of an assault and did that get reported to the police?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did anybody get arrested for it?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you feel about the way that the police handled your situation?

THE PROSPECTIVE JUROR: It was about 10 years ago so both myself and the assailants were minors. So, they didn't have any prior record, so there was really not a lot that the Court was able to do in terms of, you know, punishment I suppose.

So, you know, I was just kind of in the wrong place at the wrong time. So I hadn't really done anything to deserve that. And they didn't get anything for doing it. So I was not thrilled about it, but what are you going to do.

THE COURT: Well, is there anything about that experience that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No, I don't think so.

THE COURT: And you had a small claims case. Did you have to-- did you bring the case yourself?

THE PROSPECTIVE JUROR: Well, yeah as something that happened during the assault, my orbital floor was fractured. I had a number of medical bills that were not covered by anything. So, you know, we didn't -- we consulted with an attorney that said, again, since the person, the assailant was minor, really had no assets, would not be in our best interests to go to civil court. Our best bet was to try on our own in small claims court. So we did, you know, we just took the case ourselves to the small claims court.

THE COURT: Were you successful?

THE PROSPECTIVE JUROR: Partially, sure.

THE COURT: Did you get something?

THE PROSPECTIVE JUROR: I got something.

THE COURT: You got something.

THE PROSPECTIVE JUROR: It didn't pay for everything but it was better than nothing.

THE COURT: And again, anything about that other experience of taking this matter yourself to court, that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No, I don't think so.

THE COURT: You have a brother who has been involved with marijuana and molly.

THE PROSPECTIVE JUROR: Yes.

THE COURT: You were concerned that that might somehow impact on your views on people who provide drugs.

Could you talk a little bit about that?

THE PROSPECTIVE JUROR: Yes, some of that stuff is very recent and kind of ongoing. Something that my family has been dealing with, that he has been going through. So, it is-- you know, it is something that is in our day-to-day lives. So whenever there is mention of drugs, people being involved in drugs is not-- doesn't fill you with rainbows and butterflies.

THE COURT: So, is it something that is so fresh and so present that you think it might spill over and impact on your ability to be fair and impartial here, given the nature of the charges?

THE PROSPECTIVE JUROR: I mean, you know, I would like to think I'm a reasonable person, to be able to fairly listen to the testimony and things like that. I do also want to be honest. You asked if there is something in my history that is involved with drugs that might have an impact on how I'm viewing things. I mean it is possible just because it is something that is fresh and recent.

THE COURT: All right. Thank you.

You heard me talk about these witnesses that are called cooperating witnesses or accomplice witnesses. Would you again be able to follow the Court's instructions on the law in connection with those witnesses?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Basically we are just asking you to use your common sense when you evaluate their testimony and it is testimony that you have to look at with great care obviously.

Would you be able to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Juror 127. Hi.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: You have travel plans.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you actually have travel plans?

THE PROSPECTIVE JUROR: Yes, it is finalized.

THE COURT: It was finalized.

When are you travelling?

THE PROSPECTIVE JUROR: The last two weeks of July, the first week Hilton Head, South Carolina and followed by Myrtle Beach.

THE COURT: I have been there, it is pretty. I have not been there when it is really nice though. In March it is still a little cold.

You golf?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Juror 128.

THE PROSPECTIVE JUROR: Afternoon.

THE COURT: Good afternoon.

You have been retired for one year. What did you retire from?

THE PROSPECTIVE JUROR: I was a scanner for a reproduction company.

THE COURT: How long were you with them?

THE PROSPECTIVE JUROR: Gosh, more than 25 years.

THE COURT: You also have a sister who was pickpocketed on the subway. Was that reported to the police?

THE PROSPECTIVE JUROR: Yes, I believe it was. I wasn't there at the time.

THE COURT: Do you know anything about whether anyone was arrested or--

THE PROSPECTIVE JUROR: No, I don't.

THE COURT: Anything about how your sister feels about the way the police reacted to it?

THE PROSPECTIVE JUROR: She is fine. They did what they could because the guy probably got away right after he did it and off the train.

THE COURT: You also have a brother-in-law who has had some issues with alcohol. Is he in recovery at all?

THE PROSPECTIVE JUROR: No, he passed on.

THE COURT: I'm sorry to hear that.

Is there anything about that that you think would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: I don't think so.

THE COURT: And, in connection again with cooperating witnesses or accomplice witnesses, you checked off, yes, that you might have some beliefs or opinions that might affect your ability to evaluate the testimony from such witnesses fairly and impartially.

You have heard the discussions that I have had with some of the other jurors. Given those instructions, do you think that you can evaluate the testimony of such witnesses fairly and impartially?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Last but not least, juror 136. Thank you for your patience.

Same question, with respect to cooperating witnesses who are testifying pursuant to a cooperation agreement. You said that the person might say anything for a sentence reduction. You have heard my instructions and given my instructions would you be able to evaluate their testimony fairly and impartially?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I mean, obviously if a person has a cooperation agreement, whether or not they have an interest in the outcome of the case, or they might be getting something in return, obviously is something that the jury can take into consideration in determining somebody's credibility. It also doesn't necessarily mean that the person is not telling the truth either.

So, the question is, you have to look at everything together, right? All in its totality.

THE PROSPECTIVE JUROR: In the full context.

THE COURT: Exactly, in the full context.

Would you be able to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And apply the law that I give to you on that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have some vacation plan for when exactly?

THE PROSPECTIVE JUROR: August 24th.

THE COURT: For the whole.

THE PROSPECTIVE JUROR: The whole week.

THE COURT: The whole week.

THE PROSPECTIVE JUROR: Timeshare.

THE COURT: It is a timeshare?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You should be okay for that time.

So, I will tell you what I'm going to do. I'm going to let you guys stretch your feet a little bit while I conference with the lawyers for a little bit.

So, why don't you come back say at 4:15. Okay. And we will talk to you some more.

Remember that you can't talk about the case among yourselves or with anybody else. Not even about the voir dire, nothing that we have discussed here.

You can't read or listen to or look at or do any kind of research over any kind of media. And try to be back here promptly at 4:15. We will resume with you right away.

Remember not to come in until somebody from my staff goes and gets you.

(Jurors left the courtroom.)

THE COURT: Why don't you all take a few minutes to caucus and figure out what you want.

(Recess.)

THE COURT: You are okay with going forward without your clients being here?

MR. RUSSELL: Yes.

THE COURT: We did it at the sidebar anyway.

So, let's get going.

For the record, the defendants have just stepped away to take a nature break. The lawyers are all here for both sides. The jury is not here.

So, challenges for cause, as to number 52?

MR. HERMAN: None from the defendant.

MR. AMATRUDA: No, Your Honor.

THE COURT: I want to make sure I hear from all the defendants. Is that okay Mr. Russell and Mr. Jasper?

MR. RUSSELL: Yes.

THE COURT: Juror 56. I have as okay. Is she okay for everybody?

MS. FARHADIAN: Yes.

MR. RINALDO: Yes, I'm-- I will sit back down. For cause on 56, Judge. I just wanted to point out, her answers were they have to punish. They have to be punished for what they did to other people. Grand Jury means go to jail.

When you questioned her on those, the first response was, it is-- it depends. And then I think continuing, she said, again, when questioned, she expanded and said, it depends on the case and what the charges are.

Then finally, when you asked her if she could be fair after a further explanation, she finally said, she can accept it. I think it was just-- it took like three tries to get there. And, I think it is sufficient for cause.

And also, Judge, she mentioned-- you did question her a lot about this. The fear of gangs that she has about coming home late at night and that seemed to be something in the front of her mind.

I think a combination, Judge, we would ask for cause on that.

THE COURT: People? Government?

MS. FARHADIAN: We disagree.

MR. AMATRUDA: I answer to both. Old habits die heard.

MR. RINALDO: You cannot do that.

THE COURT: It comes out.

MS. FARHADIAN: The people disagree. We thought that she said quite clearly that she would accept the Court's instructions. She certainly required some instruction. I think that is clear. But she seemed to listen carefully and to understand.

She also addressed the question of being afraid at night directly. It had to do with her commute and her neighborhood. But she said that would not carry over into her ability to evaluate the case.

THE COURT: I agree. The challenge for cause is denied. She will stay.

59. Her big issue was the language issue.

MR. RINALDO: I was hoping we would have consent on that juror. I think the problem was, it was pretty significant.

MS. FARHADIAN: Again, Your Honor, we disagree. I think that she is one of those people who is hard on herself, but she has a college degree in child psychology from a country whose official national language is English. Said the instructions was in both Hindi and English. She also seemed to be able to converse with the Court comfortably. Certainly at the level necessary to accomplish jury service.

MR. JASPER: Judge, I agree with co-counsel. I think there was a significant language problem here. She speaks to the children in Hindi. She is in a-- she is a housewife, which is nothing-- by the way, wrong with that. That is working in the home. But, she clearly seemed to have problems communicating with the Court. The notion also that India, the official language is English, there are hundreds of languages in that country and I think English is one way of just kind of avoiding a lot of disputes.

She herself said that the college that she went to, taught in both English and Hindi. I think it was predominantly Hindi is what she actually said.

THE COURT: The challenge for cause is granted.

Number 60.

MR. RUSSELL: Your Honor, we maybe heard as to number 60.

THE COURT: Yes.

MR. RUSSELL: When you look at her questionnaire on the face, it appears that there may not be a problem. However, when the Court questioned her as to hearing evidence to decide whether guilt or innocence. I'm trying to see what question that was.

That dialogue that went on.

THE COURT: 46.

MR. RUSSELL: The dialogue that went on between her and the Court it became apparent at least to me, she was questionable as to whether or not she needed to hear from the defendants in reference to proving their innocence.

And, first go around, and then the second go around was even more doubtful as to what her actual answer was. She was engaging with the Court and that is fine, and that just meant she really understood what the Court was saying. But, at the end of the day, when questioned as to whether or not there needs to be evidence of innocence, she was quite questionable. Her response was not, well, they don't have to take the stand. Her response was not firm in that, I will listen to the evidence and let the evidence decide. It was questionable as to what was her standard.

MS. FARHADIAN: Your Honor, we thought this juror did need instruction from the Court, but when the Court asked her, are you able to follow the Court's instructions, and set aside-- really whatever other misunderstandings or preconceptions she might have had, she clearly said, yes.

THE COURT: I agree. On whatever misunderstanding she may have had, I think she was rehabilitated so that the challenge for cause is denied.

Number 64. The gentleman with the cane.

MR. AMATRUDA: Nothing from the government on him, Your Honor.

MR. RINALDO: Nothing.

MR. RUSSELL: Nothing.

THE COURT: Okay. He is fine.

Juror 66 has the financial hardship that was the lady with the letter.

MR. RINALDO: Consent, Judge.

MS. FARHADIAN: Yes, Your Honor.

MR. RUSSELL: No issue, Judge.

THE COURT: And number 68. She-- that was the Law Secretary. She finally got out that she had a vacation week on July 19th.

MR. RINALDO: No objection, Judge to striking her.

MS. FARHADIAN: Your Honor, I think it is pretty clear this juror did not want to serve and once the college classes reason didn't work out for her, then this vacation appeared.

You know, I guess as a matter of principle, I find it problematic. I don't quite know what to say beyond that.

It wasn't clear that this was a vacation that had to happen. She said she got off of a wait list for a timeshare the time between when she filled out the questionnaire and when she came here.

MR. RINALDO: I think I kind of agree with everything she just said. The point is, if she doesn't want to be here, I think we have enough people that we can avoid someone who really doesn't want to be here.

THE COURT: I agree. The defendant's cause challenge is granted as to number 68.

Unless I hear an objection, am I correct in assuming that both defense counsel are agreeing?

MR. RUSSELL: That is correct. We discussed before.

THE COURT: I wanted to make sure that the record is complete.

Number 70.

MR. RINALDO: Nothing for Mr. Taylor, Judge.

MR. RUSSELL: No.

MR. AMATRUDA: Nothing from the government, Your Honor.

THE COURT: So number 70 is okay.

Number 84.

MR. AMATRUDA: Nothing from the government, Judge.

MR. RUSSELL: Nothing for defense.

MR. RINALDO: Nothing for Mr. Taylor, Judge.

THE COURT: So 84 comes back.

Juror 86 has vacation, July 21st.

(Transcript continues on next page.)

THE COURT: Stricken.

I gather, the defendants --

MR. RINALDO: Agree with the Court, Your Honor.

MR. RUSSELL: We agree.

THE COURT: Number 90?

MS. FARHADIAN: No objection.

THE COURT: Defendant?

MS. FARHADIAN: We thought he could serve.

THE COURT: Defendant? I thought so as well.

MR. RINALDO: Yes, Judge.

MR. RUSSELL: Yes. No objection.

THE COURT: So 90 is okay.

93?

MS. FARHADIAN: We move to strike this juror for cause.

THE COURT: Is that on consent?

MR. RINALDO: Yes.

MR. RUSSELL: Yes.

THE COURT: There was animosity towards drug dealers. Cause consent.

Number 95? This is the physician's assistant. You talk about somebody who could really understand English. Give me a break.

But he also came up with a million and one excuses. The fasting for Ramadan.

Is there a consent cause here?

MS. FARHADIAN: Yes.

MR. RUSSELL: Yes.

MR. RINALDO: Yes.

THE COURT: Okay. Number 96?

MS. FARHADIAN: We think he can serve, Your Honor.

MR. HERMAN: Judge, this is a juror who when you asked him publicly, he gave all the correct publicly acceptable -- acceptable answers. When he was privately pulling out the questionnaire, on ten occasions, drugs have ruined my cousin's and my family's life. Drugs and guns, I can't stand, they kill our society.

He thinks he can presume the innocent -- the defendants innocent and he thinks he can require the government to prove the case beyond a reasonable doubt.

So every possible way he's telling us that he really has very many attitudes which are inconsistent with being a fair juror, but on the other hand when he appears in court I guess he wants -- doesn't want to truly tell us what he truly feels.

THE COURT: I agree. I got a real sense from him that he was -- and maybe he should have been questioned privately. But I got a sense that he was just spouting politically correct and not what he truly felt.

Challenge for cause is granted.

I am not sure about his financial thing. I am not convinced, but the other things are of a concern.

Number 99? That's the juror who said he would have to hear from the defendant. He was unequivocal about that.

Consent cause?

MS. FARHADIAN: Yes.

MR. RUSSELL: Yes.

MR. RINALDO: Yes, Judge.

MR. HERMAN: We have no issue with 100, Judge.

MR. RUSSELL: That is correct, Your Honor.

MS. FARHADIAN: We agree.

THE COURT: I'm sorry? Juror 100? I'm sorry?

MS. FARHADIAN: I think we all agree, he can serve.

MR. RUSSELL: No issue.

THE COURT: Okay. Juror 100 is okay.

102?

MS. FARHADIAN: I would think on consent, to strike for cause.

MR. RUSSELL: Yes.

THE COURT: Consent cause is granted.

105? I think he's okay.

MR. HERMAN: He's okay with the defense, Judge.

MR. AMATRUDA: Yes, Your Honor.

MR. RUSSELL: Yes.

THE COURT: 106?

MS. FARHADIAN: I would think this is a consent cause because of language ability.

MR. HERMAN: We agree.

MR. RUSSELL: Yes.

THE COURT: Consent cause.

I was having trouble understanding what he was saying.

His answers were not responsive either.

117?

MR. HERMAN: He can serve, Judge.

MS. FARHADIAN: I'm sorry?

MR. HERMAN: No objection to 117.

THE COURT: This is the juror who was concerned that his brother's addiction might -- it sort of fresh. It is something that they are struggling with and it might spillover. I would have thought that there would be a consent cause challenge.

MR. JASPER: Judge, can I have a moment with cocounsel?

THE COURT: Yes.

(Pause.)

MR. HERMAN: We will consent, Judge.

THE COURT: Consent cause?

Yes.

MR. RUSSELL: Yes.

THE COURT: That's 117.

127?

MR. RUSSELL: Vacation?

THE COURT: Yes, traveling the two weeks of July. Consent?

MS. FARHADIAN: Yes.

MR. HERMAN: Consent.

THE COURT: 128 seemed okay.

MS. FARHADIAN: We agree.

MR. HERMAN: Okay with the defendants.

THE COURT: Okay. And 136 also seemed okay.

MS. FARHADIAN: Yes.

MR. HERMAN: Yes.

THE COURT: Okay. Folks, we should bring out the defendants, please.

Folks, with respect to this particular group, I am going to -- because it is late in the day and it is late for the jury clerk to be able to set up the phone system, I am just going to tell the people challenged for cause that they are excused from this case. The other ones are to come back tomorrow afternoon.

(The defendants are present.)

Along with the other folks.

All right. Let's go get the jury.

One other thing that you all should know, juror 231, which is the next group that's been waiting downstairs, she had child care issues and she had to leave. She may not be in the order.

Just come right in and take the seats that you had before you left the room.

(Prospective jury panel is now present.)

THE COURT: Parties are back. We are just missing one lawyer, who will be back in a second. All the parties are here.

Do the parties agree that all of our jurors are here and properly seated?

MR. AMATRUDA: Yes, Your Honor.

MR. RUSSELL: Yes, Your Honor.

MR. HERMAN: Yes.

THE COURT: All right. Listen very carefully to your number. All right? If I call your number, you are excused. You go home. You don't have to come back. You will get something in the mail to show for your jury service.

THE CLERK: They've been given that.

THE COURT: Oh, you have that already I understand. You've gotten a letter already from the jury clerk?

Okay. She is just too efficient for me, what can I say? The woman is always ready.

All right. Listen very carefully. If you hear your number, you are excused from this case and tomorrow you can go back to work and do whatever else you do in your daily life.

59.

66.

68.

86.

93.

95.

96.

99.

102.

106.

117.

And 127.

All of you are excused. Before you leave, the rest of you, okay, the rest of you are going to come back tomorrow afternoon at 2:15. Okay? We are going to continue the jury selection process at that time.

Okay? So if you heard your number called, you do not have to come back. If you did not hear your number called, you do have to come back and you come back at 2:15.

Okay? If you wanted to go to work in the morning, you can go to work in the morning, as long as you are here at 2:15.

All right? So remember not to read or listen to anything about this case or to talk to anybody about this case or do any kind of research over any kind of media. Remember not to look at anything that might be reported and not to have any contact with any of the Court staff or any of the staff for the parties.

Okay? Thank you all very much for your patience and some of you --

THE PROSPECTIVE JUROR: Do we have to call the number after 7:00 o'clock?

THE COURT: No, you do not. Because I'm telling you, if your number was not called you have to come back tomorrow. Okay? At 2:15.

THE PROSPECTIVE JUROR: Right here?

THE COURT: Yes. You will report back. Wait until we bring you into the courtroom.

I'm sorry. I am corrected. You need to go to the jury room so that they can make sure that you are here so you can get your letters for your daily service.

THE PROSPECTIVE JUROR: You mean, we have to go through the same process that we went through this morning first?

THE COURT: Correct, exactly. So you go downstairs to the jury room on the second floor and then they will let us know when you are all together and we will go get you.

Okay? All right.

Thank you. Thank you very much.

(Prospective jury panel leaves courtroom and the following occurs.)

THE COURT: Can I just talk to counsel for one second? It is now close to 20 minutes to five. By the time we bring the other 40 upstairs and get them seated it will be just about 5:00 o'clock. I was going to suggest that we tell them to just come back at 9:30 and we will proceed tomorrow morning.

MR. RINALDO: That's fine, Judge.

MR. RUSSELL: Yes, Judge.

THE COURT: A little bit fresh tomorrow morning. Hopefully it won't take so long. I thought we would have gotten through a lot faster today.

MR. AMATRUDA: Your Honor --

THE COURT: Is that okay?

MR. HERMAN: Yes.

MR. AMATRUDA: Your Honor, I just wanted to raise one issue, perhaps, make one suggestion. I don't know if you don't want to do it now. But the -- I think we are up to -- we just finished through 139 and by our count I think we have 40 jurors who have not been stricken, who are in the panel or who are in the -- still in the pool.

So I was just going to suggest that tomorrow --

THE COURT: You mean precleared?

MR. AMATRUDA: I don't want to use that term. But if you don't have -- the jurors who didn't come back for questioning, who are not stricken, so we have those, and then we have the ones from today, that we didn't strike. There are 40 now.

THE COURT: Right. When I use the term precleared, those are the ones that none of you had follow-up questions for.

MR. AMATRUDA: That's right.

THE COURT: That's who I am talking about. I think we have 38.

MR. AMATRUDA: I was counting in order up until 139. If you combine the precleared with the people up to 139. Maybe I am just -- maybe I am just introducing too much confusion. I was just going to suggest that once we have a certain number, perhaps what we could do is exercise our strikes. I think we need 43 or something like that.

THE COURT: We can do that too. We can go through -- we can bring -- I want to make sure that I am understanding because there has been way too much misunderstanding.

MR. AMATRUDA: Yes.

THE COURT: We have 38 that are precleared, that nobody had follow-up questions for. Those 38 -- I think they are scheduled to come in in the afternoon.

THE CLERK: Tomorrow morning.

THE COURT: Tomorrow morning, I'm sorry.

Then we have those who were not stricken today. Right?

I think that takes us past our magic number of 43.

MS. FARHADIAN: That's not what we mean, Your Honor.

That's not -- that's not I think what Mr. Amatruda meant.

THE COURT: I don't know what you are saying then.

MS. FARHADIAN: I think what we are saying is -- what we are saying is we need three more and here is how. So we stopped at number 136. Right?

So if he were to look at jurors one through 136 and look at who is remaining in there, combining the precleared jurors in numerical order up until 136, and the people who survived today, up until 136, we think that's 40 people.

So that's a assuming that --

THE COURT: You count how many people?

MS. FARHADIAN: Forty. Our magic number is 30. So --

THE COURT: No. Our magic number is 43.

MS. FARHADIAN: Sorry.

THE COURT: We still don't have enough. The other thing is that we are not starting the evidence until Monday. So I would like to have a cushion of about 47, 48 jurors.

(Continued on next page.)

MS. FARHADIAN: Sure.

THE COURT: To come back on the 7th, and then the first -- we'll just proceed from there of precleared people -- rather, completely qualified jurors.

MS. FARHADIAN: So, I think we're in agreement. I think if you even questioned maybe like ten more, I think that then, realizing every time we add some from this pool, we add some from the precleared pool, I believe we would arrive at something around forty-seven, which gives the cushion your Honor is asking for.

We talked about that. Probably about ten more might get us over the hump.

If we stopped at 136 -- if we stopped at 150, with whoever is left through 150, we might get there.

MR. AMATRUDA: Your Honor, we're not talking about how many people to bring back. I think we should bring back these forty. It's when your Honor stops asking follow-up questions, it would just be a cutoff for that. That's all we're saying.

MS. FARHADIAN: We could even revisit it at that point and make sure our math is correct.

(Pause.)

THE COURT: We have thirty-eight jurors that nobody had a problem with based on the questionnaire; right?

MR. RINALDO: Right.

THE COURT: I'm having them come in tomorrow morning. I don't see why we just don't take these thirty-eight that nobody had problems with. Most of them are in the lower numbers. More than half of them are in the lower numbers as it is.

MS. FARHADIAN: Eighteen of them are in the numbers that line up with the number we stopped at today. That's how we got the forty.

THE COURT: Okay. So, if we bring them in, I was planning, as I told the attorneys, just so that we hear them talking and get a sense of them, just picking randomly some questions, maybe some media questions, or one or two questions to get them chatting a little bit, and let's go through the thirty-eight. The other forty that we have left are the people that we have problems with, I mean, really bigger problems with. We've already gone through -- this is part of the problem why we don't understand each other, is because when I'm talking, you people are talking.

MS. FARHADIAN: I apologize, your Honor.

THE COURT: This was the system that I had proposed before. Actually, not even, because at first, we thought we had more people that there were no issues with. The defense had no problem proceeding this way. And then we have the people who were not stricken today coming back in the afternoon. We'll have the thirty-eight coming back in the afternoon.

I'm assuming that there isn't something that hasn't happened in the interim to make them unqualified, and that should give us more than ample jurors to get our jury pool from. And it's not really breaking that much from the randomness of the original system. It's still pretty random, and I think it will be a lot less time-consuming.

MS. FARHADIAN: So, your Honor, just so I make sure we understand, we will go in numerical order. These people, the twenty-two who survived today, will get integrated back in their numerical order with the first thirty-eight?

THE COURT: They'll get integrated with these in the afternoon when they come back.

MS. FARHADIAN: Okay.

THE COURT: So then, they will be seated in a range, so that you can take a look at them all together and integrated. I think we'll go through a lot faster in the morning than if we have to go through another forty that have issues.

(Pause.)

THE COURT: You see all these multiple-colored tabs on here? These are the problems. Each color represents a party that has a problem with the particular juror. It includes me and my law clerks, the defense and the government. If we go through these, we will spend an entire day just going through these, whereas if we go through the ones that nobody had issues with, off the questionnaire, I'm happy to give you some flavor of who they are, get them to chat a little bit, make sure that nothing has come up in the interim, we will have these that we can call in if, for some reason, something horrible happens with these that no one has problems with.

MR. AMATRUDA: It makes sense, Judge.

THE COURT: I think it will go through a lot quicker and we can have our jury by tomorrow afternoon.

THE CLERK: Can I tell her to let those people go with the instruction that they just keep calling?

THE COURT: Yes. If we have that terrible bad luck that they have problems, then we'll tell these people to come back Wednesday morning.

MR. AMATRUDA: So we're clear, we're reconvening tomorrow at 215.

THE COURT: No. At 9:30.

MS. FARHADIAN: We'll be here.

THE COURT: 9:30, so that we can go through the ones that had clean questionnaires.

MR. AMATRUDA: Got it.

MS. FARHADIAN: And then do our peremptories.

THE COURT: The peremptories are in the afternoon, so we can integrate the ones that survived today, put them in sequential order, so the people who were questioned today can be put in numerical order.

MR. AMATRUDA: Yes, your Honor.

MR. RINALDO: Yes, your Honor.

(Pause.)

THE COURT: We're good?

MR. AMATRUDA: Yes, your Honor.

MR. RINALDO: Yes, your Honor.

THE COURT: We can let the marshals do their thing and transport the defendants back.

MR. ROYCE: I would ask you not to ask us if we are good on this again, because that may cause a problem.

THE COURT: Okay.

(Case adjourned to Tuesday, July 1, 2014 at 9:30 a.m.)